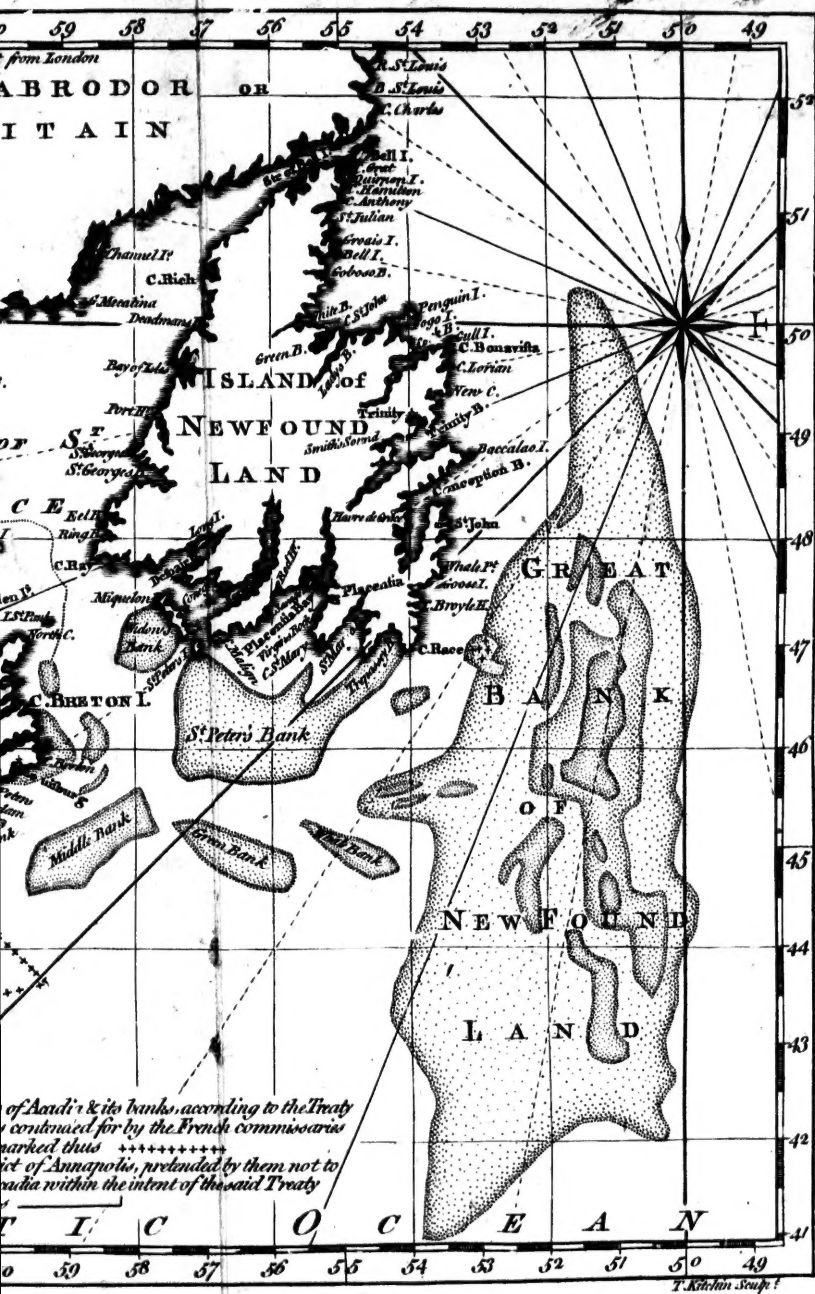












THE
ANCIENT RIGHT
OF THE
ENGLISH NATION
TO THE

American Fishery;

AND ITS
VARIOUS DIMINUTIONS;
EXAMINED and STATED.

WITH

A MAP of the LANDS, ISLANDS, GULPH, SEAS, and FISHING
BANKS comprising the whole.

Humbly inscribed to the sincere Friends of the *British* Naval Empire.

— *nè quid falsi dicere audeat ;— nè quid veri non audeat.* CICER. de Orat.

L O N D O N

Printed; and sold by S. BAKER, in *York-street, Covent-Garden.*

MDCCLXIV.

THE ...

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Tamp. H.
VII.

A.D. 1493
Martii,
1^{mo} regni

Meri Fo

THE
ANCIENT RIGHT
OF THE
ENGLISH NATION
TO THE
American Fishery, &c.

S E C T. I.

ALL things are small in their beginnings, *Amsterdam*, says the *Dutch* proverb, stands upon herring bones, and the *American* fishery from *Sebastian Cabots* taking up the first cod with *European* hands having long since so far encreased as to raise a very large number of able seamen, I purpose to set forth the original right of the *English* nation to this fishery, with the various diminutions thereof by royal grants, encroachments and cessions, in order to illustrate this matter, wherein the *British* naval power is so nearly concerned.

*Temp. Hen.
VII.*

King *Henry* the Seventh made the following grant, to wit,

*A.D. 1495-6.
March 5.
11^{tho} regni.*

*A.D. 1495-6.
Martii,
1^{mo} regni.*

“ Rex omnibus ad quos, “ The king to all to whom,
“ &c. Salutem.” “ &c. Greeting.”

Imperi Fœd.

“ **N**OTUM SIT ET MANI-
FESTUM quod dedi-
mus et concessimus, ac per

“ **B**E IT KNOWN AND MA-
NIFEST that we have
“ given and granted, and by
B præ-

" præsentēs damus et conce-
 " dimus, pro nobis et hære-
 " dibus nostris, dilectis nobis
 " *Johanni Cabotto* civi Vene-
 " tiarum, ac *Ludovico, Se-*
 " *bastiano*, et *Sancto*, filiis
 " dicti *Johannis*, et eorum ac
 " cujuslibet eorum hæredibus
 " et deputatis, plenam ac li-
 " beram auctoritatem, facul-
 " tatem et potestatem navi-
 " gandi ad omnes partes, re-
 " giones, et sinus maris Ori-
 " entalis, Occidentalis, et Sep-
 " tentrionalis, sub banneris,
 " vexillis, et insigniis nostris,
 " cum quinque navibus sive
 " navigiis, cujusunque porti-
 " turæ et qualitatis existant,
 " et cum tot et tantis nautis
 " et hominibus, quot et quan-
 " tis in dictis navibus secum
 " ducere voluerint, suis et eo-
 " rum propriis sumptibus et
 " expensis.

" *Ad inveniendum, disco-*
 " *operiendum et investigandum*
 " *quascunque insulas, patrias,*
 " *regiones, sive provincias gen-*
 " *tilium et infidelium in qua-*
 " *cumque parte mundi positas,*
 " *quæ Christianis omnibus ante*
 " *hæc tempora fuerunt incognitæ.*

" Concessimus etiam eis-
 " dem et eorum cuilibet, eo-

" these presents do give and
 " grant, for Us and our heirs,
 " unto our beloved *John Ca-*
 " *bot*, citizen of *Venice*, and
 " to *Lewis, Sebastian* and
 " *Sanctus*, sons of the said
 " *John*, and to the heirs and
 " deputies of them and each
 " of them, full and free au-
 " thority, leave and power of
 " sailing to all parts, regions
 " and bays of the east, west,
 " and north sea, under our
 " banners, standards and en-
 " signs, with five ships or
 " vessels, of whatever burthen
 " and quality they be, and
 " with a many and such
 " sailors and men, as they
 " shall be willing to take with
 " them in the said ships, at
 " their own proper charges
 " and expences.

" *To find out, discover and*
 " *investigate whatsoever islands,*
 " *countries, regions or pro-*
 " *vinces of gentiles and infi-*
 " *dels, in whatever part of*
 " *the world situated, which were*
 " *unknown to all Christians be-*
 " *fore these times.*

" We have also granted to
 " them, and to every of
 " rumque,

“rumque, et cujuslibet eorum
 “hæredibus et deputatis, ac
 “licentiam dedimus affigendi
 “prædictas banneras nostras
 “et insignia in quacunque
 “villa, oppido, castro, insula
 “seu terra firma a se noviter
 “inventis.

“Et quod prænominati
 “*Johannes* et filii ejusdem, seu
 “hæredes et eorum deputati
 “quibuscumque hujusmodi
 “villas, castra, oppida et in-
 “sulas a se inventas, quæ sub-
 “jugari, occupari, et possideri
 “possint, subjugare, occupare
 “et possidere valeant, tan-
 “quam vassalli nostri et guber-
 “natores locatenentes et de-
 “putati eorundem, domini-
 “um, titulum et jurisdictionem
 “eorundem villarum, castro-
 “rum, oppidorum, insularum,
 “ac terræ firmæ sic inven-
 “tarum, nobis acquirendo.

“In cujus &c.

“Teste rege apud *West-*
 “*monasterium* quinto die
 “Martii.

“*Per ipsum Regem.*”

“them, and to the heirs
 “and deputies of them and
 “every of them, and have
 “given licence, to affix our
 “aforesaid banners and en-
 “signs in whatever village,
 “town, castle, island, or firm
 “land by them newly found.

“And that the before-
 “named *John* and his sons,
 “or the heirs and deputies
 “of them, may subdue, oc-
 “cupy and possess all such
 “villages, castles, towns and
 “islands by them found,
 “as can be subdued, occu-
 “pied and possessed as our
 “vassals and governors, lieu-
 “tenants and deputies of the
 “same, acquiring to us the
 “dominion, title and jurif-
 “diction of the said villages,
 “castles, towns, islands and
 “firm land so found.”

Before the *Spaniards* had discovered that there was any A. D. 1496.
 continent in the western part of the world *Sebastian Cabot*,
 proceeding under this authority, discovered the island of *New-*

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foundland, together with the continent, from the 56th or 58th to the 28th degree of north latitude.

At his return to *England*, to use his own words reported by the learned *Butrigarius* preserved by *Ramusio* [a], "he found " great tumults among the people, and preparation for wars " in *Scotland*, by reason whereof there was no more considera- " tion had to this voyage; whereupon he went into *Spain* to " the catholic king, and queen *Elizabeth*." Being favorably received he made great discoveries for the *Spaniards*, and was held in such esteem that he was preferred above all other pilots that sailed to the *West Indies*, who might not pass thither without his licence; and therefore he was called *The grand pilot*. He was likewise made one of the council and assistants touching the affairs of the *New Indies*. Returning afterwards into *England* king *Edward* the Sixth, by advice of the duke of *Somerset* his governor, and protector of the kingdom, and the rest of the king's council, on the 6th day of *January*, 1549, in consideration of his services performed, and to be performed, granted him a yearly pension of 166*l.* 13*s.* 4*d.* sterling for his life: nevertheless the best accounts we have published of his discoveries made for the crown of *England* are those which he gave to several eminent persons when in *Spain*. According to that given in a conference with *Butrigarius*, who was the pope's legate there, he sailed along the coast from the 56th degree north towards the equinoctial, till he came to that part of the firm land since called *Florida* [b].

He was the familiar friend of *Peter Martyr* of *Angleria*, who was called the *Pliny* of his age; was counsellor to *Charles* the First king of *Spain*, and when emperor his chief secretary, and one of his council; and also protonotary apostolical, who in his third decade of the ocean, first written to pope *Leo* the Tenth, and afterwards, in 1516, dedicated, together with the two first, to the king, relates to this effect. That the north seas had been searched by *Sebastian Cabot*—that

[a] Vol. ii.

[b] *Ramusio*, ubi supra.

having

having furnished two ships in *England* at his own charges, proceeding with 300 men, he sailed till he had advanced far towards the north pole; that then turning westward, and coasting along the shore, he was thereby brought so far into the south, by reason of the land bending so much southward, that it was there almost equal in latitude with the straits mouth — that following the course of the land he sailed so far towards the west that he had the island of *Cuba* on his left hand — that he named the lands discovered *Baccalaos*, because that in those seas he found vast numbers of fish so called by the inhabitants — that in many places of these regions he had seen a particular sort of metal among the inhabitants.

Francis Lopez de Gomara, a *Spanish* priest, who was living in 1550, in his general history of the *West Indies*, writes to this effect, that he who brought most certain news of the country and people of *Baccalaos* was *Sebastian Cabot*, who setting out with two ships and 300 men from *England* sailed till he came to the 58th degree of north latitude; then sailing westward he refreshed himself at *Baccalaos*, and thence sailed along the coast unto 38 degrees.

Hackluyt in his collection of voyages, published in 1589, says, “ the map of *Sebastian Cabot*, cut by *Clement Adams*, “ concerning his discoverie of the *West Indies* was then to be “ seen in her majesties privie gallery at *Westminster*, and in “ many other ancient merchants houses.”

And *John de Laet* of *Antwerp*, an author of good credit, who in 1633 published at *Leyden* a description of the *West India* in eighteen books, and whom *Daniel Heinsius*, in his commendatory verses prefixed to the work, calls *Rebus ejusdem Indiæ præfectum*, in his introduction to the second book, speaking of the northern part of the *American* continent extending southward from the 54th degree of North Latitude, says, “ it is at this day called *New France*, not because these “ countries were first traced or discovered by the *French*; for “ before the navigations of the *Bretons* and *Normans* from
“ *France*

“ *France* to these lands, a great part of the coast was not only traced, but also delineated by *John* and *Sebastian Cabot*, *Venetians*, under the auspices of *Henry* the Seventh king of *England*, as the maps by them published declare, of which not a few remain in *England* at this time.”

Father *Charlevoix* [c], after speaking of *Esotiland*, says, “ more certain it is that about the year 1497 a *Venetian* named *John Gabos* (*Cabot* or *Gabato*) and his three sons, who had fitted out at the expence, or at least under the authority, of *Henry* the Seventh king of *England*, discovered the island of *Newfoundland*, and a part of the neighbouring continent. They even add that they brought to *London* four savages of those countries; but good authors have written that they never landed in any place either of the island or the continent.” This Jesuit, though for the advancement of the interest of *France* he is ever solicitous to prejudice the rights of the *English*, names none of his good authors whom he supposes to have testified to the negative of the *Cabots* landing in any part of the countries by them discovered.

S E C T. II.

Temp. Hen.
VIII. & Ed.
VI.

A. D. 1527.

KING *Henry* the Eighth sent two fair ships, well manned and victualled, with skilful pilots, to seek strange regions. On the 20th of *May* they sailed from the *Thames*. Of their proceeding we have this short account remaining, that sailing very far north westward one of the ships was cast away as it entered into a dangerous gulph about the opening between the north parts of *Newfoundland* and the country called by queen *Elizabeth* *Meta Incognita*; whereupon the other ship shaping her course towards cape *Britton*, and the coast of *Norumbega*, and oftentimes putting their men on land, to search the state of those unknown regions, re-

[c] *Hist. de la Nouv. France*, tom. i. p. 3.

turned

turned home about the beginning of *October* of the year aforesaid [d].

Mr. *Hore*, a merchant of *London*, being assisted by the favour and good countenance of king *Henry* the Eighth, with divers others, in two ships, in which were about 120 persons, whereof 30 were gentlemen, sailed on discoveries. The first land they made was about cape *Breton*. Sailing thence they came to the island of *Penguin*, lying about ten leagues to the northward of cape *Bonavista*, and three or four leagues from the nearest part of *Newfoundland*. Afterwards they went on shore upon the east side of *Newfoundland*, and having staid there some time, their provisions failing them, and grievous disasters ensuing thereupon, they returned to *England* in *October* [e].

Notwithstanding the great distress which beset this company, in a few years the *English* resorted frequently to *Newfoundland* for the benefit of the fishery, as appears from an act of parliament passed in the reign of king *Edward* the Sixth, in favour of persons concerned in the fishing trade, wherein it is thus declared, “ For as much as within these few years now last past there hath been levied, perceived, and taken, by certaine of the officers of the admiraltie, of such merchants and fishermen, as have used and practised the adventures and journeyes into *Island*, NEWFOUND-
LAND, *Ireland*, and other places commodious for fishing, and the getting of fish, in and upon the seas or otherwise, by way of merchants in those parts, divers great exactions, as sums of money, doles or shares of fish, and such other like things, to the great discouragement and hinderance of the same merchants and fishermen, and to no little damage of the whole common wealth; and whereof also great complaints have been made, and informations also yearly to the king’s majesties most honourable council. For reformation whereof, and

[d] Hackl. vol. i. p. 517.

[e] Id. ib.

“ to the intent also that the said merchants and fishermen
 “ may have occasion the rather to practise and use the same
 “ trade of merchandise and fishing, freely, without any such
 “ charges or exactions, as is before limited, whereby it is to
 “ be thought that more plentie of fish shall come into this
 “ realme, and thereby to have the same at more reasonable
 “ prices.

“ Be it therefore enacted” &c.

Temp. Eliz.

S E C T. III.

A. D. 1583.

NEWFOUNDLAND, with the adjacent countries, islands, and fisheries, was in a manner the most notorious by Sir *Humphrey Gilbert* more clearly annexed and fully brought under subjection to the crown of *England*, of which we have a particular relation given by Mr. *Edward Hayes*, whereby it appears that on the 11th of *June* Sir *Humphrey* sailed with five ships manned with about 260 men, from *Causet* bay, near *Plymouth*. The largest, burthen 200 tons, named the *Rawley*, was vice admiral, and fitted out by the illustrious person whose name she bore, who was half brother to Sir *Humphrey*. Mr. *Hayes* was captain and owner of the ship *Golden Hinde*, the rear admiral. On the 3^d of *August* having entered and come to an anchor in the harbour of *St. John*, the captains and masters repaired on board their admiral, “ whither,” to proceed in the authors words, “ also came immediately the masters and owners of the fishing fleet of *Englishmen*, to understand the general’s intent, and cause of our arrival there. They were all satisfied when the general had shewed his commission, and purpose to take possession of those lands to the behalf of the crown of *England*, and the advancement of *Christian* religion in those *Paganish* regions, requiring but their lawful aid for repairing of his fleet, and supply of some necessaries, so far as conveniently might be afforded him, both out of that and other harbours adjoining.

“ adjoining. In lieu whereof he made offer to gratify them
 “ with any favour and privilege which upon their better
 “ advice they should demand, the like being not to be ob-
 “ tained hereafter for greater price. So craving expedition of
 “ his demand, minding to proceed further South without
 “ long detention in those parts, he dismissed them, after pro-
 “ mise given of their best endeavour to satisfy speedily his so
 “ reasonable request. The merchants with their masters
 “ departed, they caused forthwith to be discharged all the
 “ great ordnance of their fleet in token of our welcome.”

“ It was further determined that every ship of our fleet
 “ should deliver unto the merchants and masters of that har-
 “ bour a note of all their wants; which done the ships, as well
 “ *English* as strangers, were taxed at an easy rate to make
 “ supply. And besides, commissioners were appointed, part
 “ of our own company, and part of theirs, to go into other
 “ harbours adjoining (*for our English merchants command all*
 “ *there*) to levy our provision; whereunto the *Portugals* (above
 “ other nations) did most willingly and liberally contribute;
 “ inasmuch as we were presented (above our allowance) with
 “ wines, marmalads, most fine ruske or bisket, sweet oils,
 “ and fundry delicacies.” After mentioning what is at
 present immaterial, the author says that, on monday following,
 “ the general had his tent set up, who being accompanied
 “ with his own followers, summoned the merchants and
 “ masters, both *English* and strangers, to be present at his
 “ taking possession of those countries. Before whom openly
 “ was read, and interpreted unto the strangers, his com-
 “ mission; by virtue whereof he took possession in the same
 “ harbour of *St. John*, and 200 leagues every way, invested
 “ the queens majesty with the title and dignity thereof, had
 “ delivered unto him (after the custom of *England*) a rod and
 “ a turf of the same soil, entering possession also for him, his
 “ heirs and assigns for ever: and signified unto all men, that
 “ from that time forward they should take the same land as a
 C “ territory

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“ territory appertaining to the queen of *England*, and himself
 “ authorized under her majesty to possess and enjoy it, and to
 “ ordain laws for the government thereof, agreeable (so near
 “ as conveniently might be) unto the laws of *England*, under
 “ which all people coming thither hereafter, either to in-
 “ habit or by way of traffick, should be subjected and go-
 “ verned. And especially at the same time for a beginning
 “ he posed and delivered three laws to be in force immediate-
 “ ly. That is to say, the first for religion, which in public
 “ exercise should be according to the church of *England*.
 “ The 2^d for maintenance of her majesties right and pos-
 “ session of those territories, against which if any thing were
 “ attempted prejudicial the party or parties offending should
 “ be adjudged and executed as in case of high treason, ac-
 “ cording to the laws of *England*. The 3^d if any person
 “ should utter words founding to the dishonour of her majesty
 “ he should loose his ears, and have his ship and goods con-
 “ fiscate.

“ These contents published obedience was promised by
 “ general voice and consent of the multitude as well of *Eng-*
 “ *lish* men as strangers, praying for continuance of this pos-
 “ session and government begun. After this the assembly
 “ was dismissed; and afterward were erected not far from
 “ that place the arms of *England*, ingraven in lead, and infixed
 “ upon a pillar of wood. Yet further and actually to estab-
 “ lish this possession taken in the right of her majesty, and
 “ to the behoof of Sir *Humphrey Gilbert* knight, his heirs and
 “ assigns for ever, the general granted in fee farm divers
 “ parcels of land lying by the water side, both in this har-
 “ bour of *St. John*, and elsewhere, which was to the owners
 “ a great commodity, being thereby assured (by their proper
 “ inheritance) of grounds convenient to dress and to dry their
 “ fish, whereof many times before they did fail, being pre-
 “ vented by them that came first into the harbour. For
 “ which grounds they did covenant to pay a certain rent
 and

“ and service unto Sir *Humphrey Gilbert*, his heirs or assigns
 “ for ever, and yearly to maintain possession of the same, by
 “ themselves or their assigns.

“ Now remained only to take in provision granted, accord-
 “ ing as every ship was taxed which did fish upon the coast
 “ adjoining. In the mean while the general appointed men
 “ unto their charge; some to repair and trim the ships,
 “ others to attend in gathering together our supply and pro-
 “ visions; others to search the commodities and singularities
 “ of the country, to be found by sea or land, and to make
 “ relation unto the general what either themselves could know
 “ by their own travail and experience, or by good intelligence
 “ of men, *English* or strangers, who had longest frequented
 “ the same coast. Also some observed the elevation of the
 “ pole, and drew plats of the country exactly graded; and
 “ by that I could gather by each mans several relation I
 “ have drawn a brief description of the *Newfoundland*, with
 “ the commodities by sea or land already made, and such also
 “ as are in possibility and great likelihood to be made: never-
 “ theless the cards and plats that were drawing, with the
 “ due gradation of the harbours, bays and capes, did perish
 “ with the admiral; wherefore in the description following
 “ I must omit the particulars of such things.”

Then follows a brief relation of the *Newfoundland* and
 commodities thereof, which the author begins thus.

“ That we do call the *Newfoundland*, and the *French* men
 “ *Baccalaos*, is an island, or rather (after the opinion of some)
 “ (it consisteth of sundry islands and broken lands, situate in
 “ the North regions of *America*, upon the gulph and entrance
 “ of the great river called *St. Laurence* in *Canada*; into the
 “ which navigation may be made both on the South and
 “ North side of this island. The land lyeth South and
 “ North, containing in length between 3 and 400 miles,
 “ accounting from cape *Race* (which is in 46 deg. 25 min.)
 “ unto the grand bay in 52 deg. of septentrional latitude.

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“ The island round about hath very many goodly bays and
“ harbours, safe roads for ships, the like not to be found in
“ any part of the known world [f].”

Mr. *Hayes* in the former part of his relation says, “ The
“ first discovery of these coasts (never heard of before) was
“ well begun by the *Cabots*, who were the first finders out of
“ all that great tract of land stretching from the cape of
“ *Florida* unto those islands which we now call the *New-*
“ *foundland*, all which they brought and annexed unto the
“ crown of *England*.”

With Sir *Hum*,¹ rey went *Stephen Parmenius*, a learned
Hungarian, and who was lost with him in their return [g].
In a *Latin* letter to Mr. *Hackluyt*, dated at St. *Johns* haven
in *Newfoundland* the 6th of *August* 1583, wherein he gives
an account of their proceedings, he expresses himself thus [b].
In hunc locum tertio Augusti appulimus: quinta autem ipse
admiralius has regiones in suam et regni Angliæ possessionem
poteſtatemque vendicavit, latis quibusdam legibus de religione et
obsequio reginæ Angliæ. “ We arrived at this place the 3^d of
“ *August*; on the 5th the admiral reduced these countries into
“ the possession and power of himself and the kingdom of
“ *England*, having given certain laws concerning religion and
“ obedience to the queen of *England*.”

The grant and authority in virtue whereof Sir *Humphrey*
Gilbert proceeded were made and given to him by letters
patent issued under the great seal of the kingdom; and it is
to be remembered that the territorial jurisdiction which was
thus established in the crown of *England* comprises all those
portions of the main land which in part surround and form
the great bay or gulph, as well as the gulph, together with the
island of *Newfoundland*, and all the adjacent islands seas and
fishing-banks; and moreover extends so far as to comprise the

[f] *Hackluyt*, vol. i. p. 686, &c.

[g] *Charlevoix* speaking of Sir *Hum-*
phrey says, “ his projects and his pre-

“ tensions perished with him.” Vol. i.
p. 418.

[b] *Hackluyt*, vol. i. p. 697.

country of *Nova Scotia*, according to its limits given by the grant to Sir *William Alexander*. And it is to be noted that at the time of this proceeding, or at any other time during the reign of queen *Elizabeth*, no other *Christian* prince had possession of any part of the land thus comprised. It may be observed that in consequence of *Sebastian Cabots* discovering the country of *Baccalaos*, and his return with the tidings to *Europe*, the *Portuguese*, *Spanish* and *French*, as well as *English* fishermen resorted early to the new found land, of which descriptive words an appellative was in time formed by the *English*, and appropriated to the great island which was the chief seat of this fishery, and *Stephen Parmenius* [i] says that when Sir *Humphrey Gilbert* entered *St. Johns* harbour they found about twenty *Portugal* and *Spanish* ships there, besides the ships of the *English*.

S E C T. IV.

Temp. Jac. I.
& Car. I.

IN the reign of king *James I.* various measures were taken for settling and improving *Newfoundland*, and the fishery. For this purpose,

His majesty by letters patent incorporated the earl of *Northampton* lord privy seal, lord chief baron *Tanfield*, Sir *John Doddridge* one of the kings serjeants at law, Sir *Francis Bacon* his solicitor general, Sir *Daniel Dun*, Sir *Walter Cope*, Sir *Percival Willoughby*, and Sir *John Constable* knights, and forty other persons by name, and their associates, giving them ample powers and privileges, and granted to them and their successors, after making them a special grant of part, all those countries, lands, and islands, commonly called *Newfoundland*, which are situate between forty and six degrees of northerly latitude, and two and fifty degrees of the like latitude. The settlement of *Newfoundland* was not pursued and advanced by this great company according to the expectations formed

A. D. 1610;
May 2.[i] *Hackluyt*, vol. i. p. 697.

upon

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upon their establishment; they did indeed, in order to plant a colony there, send a number of persons under the direction of Mr. *John Guy* a worthy merchant of *Bristol*, and one of the company, who had industriously solicited the making of a settlement in *Newfoundland*, but having staid there two years he returned.

The other measures taken hereupon will appear from a treatise written by captain *Richard Whitbourne* of *Exmouth*, published in 1623, together with a copy of the proceedings of the king, and of his council, relative to it, containing the following order from his majesty, and letter from the lords of the council to the archbishops of *Canterbury* and *York*, to wit.

“ At *Theobalds*, the 12th of *April*, 1622.”

“ His majesty is graciously pleased that the lords archbishops of *Canterbury* and *York* do in their several provinces
 “ proceed according to the letters of the lords of the council,
 “ bearing date the last of *June* 1621 as well in recommending captain *Whitbournes* discourse concerning *Newfoundland*, so as the same may be distributed to the several
 “ parishes of this kingdom, for the encouragement of adventurers unto the plantation there, as also by furthering (in
 “ the most favourable manner they can) the collections to be thereupon made in all the said parishes, towards the charge
 “ of printing and distributing those books, and the said captain
 “ *Whitbournes* good endeavours and service, with expence of
 “ his time and means in the advancing of the said plantation,
 “ and his several great losses received at sea by pirates and
 “ otherwise, of which his majesty hath been credibly certified.”

Then follows the letter of the lords of the council in these words,

“ After our very hearty commendations to your good lordships,” “ Whereas captain *Richard Whitbourne* of *Exmouth*
 “ in the county of *Devon*, gentleman, having spent much
 “ time

“ time in *Newfoundland* (whither he hath made sundry
 “ voyages, and some by expresse commissions) hath set down
 “ in writing divers good observations and notes touching the
 “ state and condition of that country and the plantation there,
 “ which being by order from us now printed, it is desired to
 “ be published throughout the kingdom for the furthering
 “ and advancement of the said plantation, and to give in-
 “ couragement to such as shall be willing to adventure therein
 “ and assist the same, either in their persons or otherwise, to
 “ which we think the publication of this book may much
 “ conduce: and we do give good approbation to his good
 “ endeavours and purpose. So have we thought fit earnestly
 “ to recommend him unto your lordships good favours both
 “ for the distribution of his books within the provinces of
 “ *Canterbury* and *York*, unto the severall parishes thereof, and
 “ also for your lordships help and furtherance, that after his
 “ great travels and charges, wherein he hath spent much of
 “ his time and means, having long been a merchant of good
 “ estate, he may reap by your lordships assistance some profit
 “ of his labours, and towards the printing and distributing
 “ the said books by such a voluntary contribution as shall be
 “ willingly given and collected for him within the severall
 “ parish churches of the said provinces; which will be both
 “ a good encouragement unto others in the like endeavours
 “ for the service of their country, and some reward to him for
 “ the great charge, travels and divers losses at sea which he
 “ hath received, as we are credibly certified. And so com-
 “ mending him earnestly to your good lordships, we bid your
 “ lordships very heartily farewell. From *Whitehall* the last
 “ day of *June* 1621.”

“ Signed by the

“ Lord treasurer, lord privy seal, duke of *Lenox*, marquis
 “ *Hambleton*, earl of *Arundell*, earl of *Kelly*, lord count
 “ *Doncaster*, lord viscount *Faulkland*, master treasurer, master
 “ secretary *Calvert*, master of the rolles.”

The

The purpose of this work, as declared in the authors dedication to his majesty, was to "beget a disposition in all his subjects for a plantation in *Newfoundland*, grounded upon reason of industry both generally and particularly profitable to the undertakers and posterities, as well in matters of wealth as also the means for increase of defence and power."

The author begins his address to his majestys good subjects as follows.

"Having had my breeding for many years together in the courses of merchandizing and navigation, I have, through the expence of my time in that calling, set this down to myself, for my duty therein, to observe and collect wherein my labours might become profitable to my country; and the rather because I could not be ignorant how much the maintenance and increase of shipping and mariners concerns us, who may fitly be stiled the nation of the sea, which general reasons were more and more commended to me by more particular considerations offered me in the notice I took of the disposition and affairs of other states to which ours hath relation."

This author made his first voyage to *Newfoundland* in or about the year 1580. He was present at Sir *Humphrey Gilberts* authoritative proceeding there in 1583; and about two years after making another voyage thither he was there when (to use his words) "one Sir *Bernard Drake* of *Devonshire* knight came thither with a commission, and having divers good ships under his command he there took many *Portugall* ships laden with fish and train oil, and brought them into *England* as prizes." In the year 1588 he served under the lord admiral as captain of a ship of his own, fitted out at his expence against the *Spanisb* armada; after which he returned to the fishing trade at *Newfoundland*, having in the course of about 40 years made frequent voyages thither before writing this treatise, the preface whereof contains the following paragraph. "In the year 1615 I returned again to

" *Newfoundland*, carrying with me a commission out of the high court of admiralty, authorizing me to impanel juries, and to make enquiry upon oath of sundry abuses and disorders committed amongst fishermen yearly upon that coast, and of the fittest means to redress the same, with some other points having a more particular relation to the office of the lord admiral." Afterwards in the discourse he informs the king that in the month of *June*, in *Trinity* bay, he began, to the use of his majesty, to execute his commission; by precept called the masters of the *English* ships that were near thereunto---that in other harbours he did the like---that the juries impanelled were composed of 170 masters of ships---that by their presentments under their hands and seals they presented sundry abuses committed in the fishery, which presentments at his return he delivered into the high court of admiralty.

Another part of the work contains this passage, " In the year 1615, when I was at *Newfoundland*, with the commission before mentioned, which was an occasion of my taking the more particular observations of that country, there were then on that coast, of your majestys subjects, above 250 sail of ships great and small. The burthens and tonnage of them all one with another, so near as I could take notice, allowing every ship to be at least threescore tun (for as some of them contained less, so many of them held more) amounted to more than 15,000 tuns. Now for every threescore tun burthen, according to the usual manner of ships in those voyages, agreeing with the note I then took, there are to be set down 20 men and boys, by which computation in 250 sail there were no less than 5000 persons. Now every one of these ships, so near as I could guess, had about 120,000 fish, and five tun of train oil one with another; so that the total of the fish in 250 sail of those ships, when it was brought into *England*, *France*, or *Spain*, being sold after the rate of four pound for every

D

" thousand

“ thousand of fish, sixscore fishes, to the hundred, which is
 “ not a penny a fish, and if it yield less it was ill sold, amounted
 “ in money to 120,000 pounds.”

“ Now, as I have said before, allowing to every ship of 60
 “ tun at least five tun of train oil, the total of all that ariseth
 “ to 1250 tun, each tun, whether it be sold in *England*, or
 “ elsewhere, being under-valued at 12 pounds; so as the
 “ whole value thereof in money amounteth to the sum of
 “ 15,000 pounds, which added to the fish it will appear that
 “ the total value of the fish and train oil of those 250 sail of
 “ ships that year might yield to your majestys subjects better
 “ than the sum of 135,000 pounds, omitting to reckon the
 “ over-prices which were made and gotten by the sale thereof
 “ in foreign countrys, being much more than what is usually
 “ made at home; and so the like in other years.”

The measures that were then taking i order to the effectual
 settlement of *Newfoundland* will appear from a paper pre-
 fixed to this work, containing the following account thereof.

“ The names of some who have undertaken to help and
 “ advance his majestys plantation in the *Newfoundland*, viz.

“ The right honourable *Henry* lord *Cary*, viscount of
 “ *Faulkland*, lord deputy general of the kingdom of *Ireland*,
 “ hath undertaken to plant a colony of his majestys subjects
 “ in the *Newfoundland*; and his lordship hath sent thither
 “ from *Ireland* this year 1623 many men and women under
 “ the conduct of Sir *Francis Tanfill* knight, with all necessaries
 “ fit for them to build houses, cleane land for gardens,
 “ meadow and tillage, and likewise to provide a place fitting
 “ for fishing, and such necessaries as appertain thereunto for
 “ a greater number of people (God willing) to be sent thither
 “ the next year, and his honour is well pleased to entertain
 “ such as shall be willing to be adventurers with him therein,
 “ upon very large and fit conditions, which are set forth in
 “ print, by his lordships order; and in his honours absence he
 “ hath authorized his agent master *Leonard Welfed* gentle-

“ man, by warrant under his hand and seal, to ratify whatsoever
 “ shall be by him concluded with any in this kingdom therein.
 “ The said master *Welfeds* house is at the lower end of *St.*
 “ *Martins* lane in the field.”

“ The right honourable Sir *George Calvert* knight, princi-
 “ pal secretary unto the kings most excellent majesty, hath
 “ also undertaken to plant a large circuit of that country, who
 “ hath already sent thither a great number of men and wo-
 “ men, with all necessary provisions fit for them, where they
 “ live pleasantly, building of houses, cleansing of land for
 “ corn and meadows, cabage, carrots, turnips and such like;
 “ and they are preparing to make salt for the preserving of
 “ fish, and for divers other services. And his honour is like-
 “ wise well pleased to entertain such as will adventure with
 “ him therein upon very large and fit conditions, as are to be
 “ seen.”

“ The worthy *John Slany* of *London*, merchant, who is one
 “ of the undertakers of the *Newfoundland* plantation, and is
 “ treasurer unto the patentees of that society, who have main-
 “ tained a colony of his majestys subjects there above twelve
 “ years, and they are willing to entertain such as will further
 “ and help the said plantation, upon fit conditions.”

“ Some worthy citizens of the city of *Bristol* have under-
 “ taken to plant a circuit of that country, and they have
 “ maintained a colony of his majestys subjects there above six
 “ years, who live there pleasantly, and they are well pleased to
 “ entertain such as will be adventurers with them.”

“ The worthy *William Vaughan* of *Taracod*, in the county
 “ of *Caermarthen*, doctor of the civil law, hath undertaken
 “ to plant a colony of his majestys subjects in *Newfoundland*,
 “ and did send thither in two several years a great number of
 “ idle people that in all that time had not done there any
 “ labour for the foresaid doctor to the value of a penny,
 “ whereof I did acquaint him at my return from that coun-
 “ try, so as he sent for them all home again, and now he is

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“ providing again to send thither this next year 1624 a greater number of people than he did before, and is also well pleased to entertain any such as shall be willing to be adventurers with him therein, upon fit conditions.”

“ And there are many other right honourable and right worshipful lords and knights, which are undertakers in the *Newfoundland* plantation, whose names are not herein mentioned; and it is well hoped that divers other worthy persons will also put their helping hand to advance the same, when they are given to understand what honour and benefit may accrue thereby.”

The present occasion; it is apprehended, does not require setting forth the effects of the several measures at this time carrying on and concerted for the better settlement of *Newfoundland*, nor am I capable of doing it were it necessary; but it may not be amiss to observe that Sir *George Calvert* having begun his settlement at *Ferriland* in 1621, some years afterwards removed thither with his family, where we are told he built a good house, erected a strong fort, staid several years, and then returned to *England*, in order to get what he obtained, a grant of the country which is now the province of *Maryland*. Doctor *Vaughan* likewise for the better advancement of his plantation went to *Newfoundland*, and during his residence there wrote his poem entitled the *Golden Fleece*.

With respect to that important part of the country of *Bacalaos* which partly forms the western and southern sides of the gulph, extending thence near W. S. W. named in a very ancient small map which I have seen *Arcadia*, and thence probably *Acadia* and *Acadie*, it is to be observed that the *French* having in the former part of that kings reign seated themselves there, in 1612 or 1613, when attempting to make new encroachments, Sir *Samuel Argall* dispossessed and drove them clean out of it, carrying away their commanders prisoners to *Virginia*. And on the 3^d of November 1620 king
James,

James, by his letters patent passed under the great seal of the kingdom of *England*, wherein after mentioning a prior division of the persons intending to make plantations in *America*, in order to form two distinct colonies, and also mentioning the measures taken for establishing the first colony, it is thus recited " Now forasmuch as we have been in like manner
 " humbly petitioned unto by our trusty and well beloved
 " servant Sir *Ferdinando Gorges* knight, captain of our fort
 " and island by *Plymouth*, and by certain the principal knights
 " and gentlemen adventurers of the said second colony, and
 " by diverse other persons of quality who now intend to be
 " their associates, diverse of which have been at great and
 " extraordinary charge, and susteyned many losses in seeking
 " and discovering a place fit and convenient to lay the foundation of a hopeful plantation, and have divers years past
 " by Gods assistance and their own endeavours taken actual
 " possession of the continent hereafter mentioned, in our
 " name and to our use as soverain lord thereof, and have settled already some of our people in places agreeable to their
 " desires in those parts, and, in confidence of prosperous success therein by the continuance of Gods divine blessing,
 " and our royal permission, have resolved in a more plentiful
 " and effectual manner to prosecute the same, and to that
 " purpose and intent have desired of us for their better encouragement and satisfaction therein, and that they may
 " avoid all confusion questions or differences between themselves and those of the said first colonie, that we would likewise be graciously pleased to make certain adventurers
 " intending to erect and establish *fishery*, trade and plantation
 " within the territories, precincts and limits of the said second colony, and their successors, one several distinct and entire
 " body, and to grant unto them such estate, liberties, privileges, enlargements and immunities there as are in these our
 " letters patents hereafter particularly expressed and declared.
 " And forasmuch as we have been certainly given to under-
 " stand

“ stand by divers of our good subjects that have for these
 “ many years past frequented those coasts and territories be-
 “ tween the degrees of forty and forty eight, that there is no
 “ other the subjects of any *Christian* king or state by any
 “ authority from their sovereigns lords or princes actually in
 “ possession of any the said lands or precincts, whereby any
 “ right, claim, interest or title may might or ought by that
 “ means accrue belong or appertain unto them, or any of
 “ them ;” did by the advice of the lords and others of his
 privy council ordain and establish that a portion of the conti-
 nent of *America*, contained within certain limits hereafter
 mentioned, with all the seas and islands within those limits,
 should be the limits of the second colony, to be thence forth
 for ever called by the name of *New England* in *America*; and
 did ordain, constitute and appoint that there should be for
 ever thereafter in the town of *Plymouth* one body politic with
 perpetual succession, to consist of forty persons, to be named
*The council established at Plymouth in the county of Devon, for
 the planting, ruling, ordering and governing of New England in
 America*; and did also appoint the duke of *Lenox*, marquis
Buckingham, marquis *Hamilton*, earl of *Pembroke*, earl of
Arundell, earl of *Bath*, earl of *Southampton*, earl of *Salisbury*,
 earl of *Warwick*, viscount *Haddington*, lord *Zouch*, lord *Shef-
 field*, lord *Gorges*, Sir *Edward Seymour* knight and baronet,
 Sir *Robert Mansell*, and seventeen other knights, *Mathew
 Sutcliffe* dean of *Exeter*, *Robert Heath* esquire, and six others
 of the same degree, to be the first council established at *Ply-
 mouth* &c. and did by the advice aforesaid thereby grant and
 confirm unto the said council, and to their successors for
 ever, all that part of *America* extending in breadth from the
 fortieth to the forty eighth degree of north latitude inclusively,
 and in length throughout the main land from sea to sea,
 with the islands and seas adjoining. Notwithstanding this
 proceeding,

On

On the 10th day of *September* 1621, king *James* by his A. D. 1621.
 charter, after reciting among other things that he had always
 been intent to embrace every opportunity of promoting the
 honour and emolument of his kingdom of *Scotland* [*nos*
semper ad quamlibet quæ ad decus et augmentum regni nostri
Scotiæ spectaret occasionem amplectendum fuisse intentos] and
 that Sir *William Alexander* knight, who was the first that at
 his own expence of his countrymen endeavoured to deduce a
 foreign colony, had requested divers lands, circumscribed by
 limits therein after mentioned, to be peopled, through his
 royal care for the propagation of the *Christian* religion, and
 for acquiring the opulence prosperity and peace of his natural
 subjects of his kingdom of *Scotland*, as other foreign princes
 in like cases had done, with the advice and consent of *John*
earl of Marr, his counsellor and treasurer, and of the rest of
 the lords commissioners of his said kingdom, " did give
 " grant and dispose unto the said Sir *William Alexander*, his
 " heirs or assigns, hereditarily, all and singular the lands of
 " the continent and the islands situated in *America* within
 " cape *Sable*, lying in forty three degrees north latitude, or
 " thereabouts; thence along the coast to *St. Marys* bay, and
 " thence passing northward by a right line across the gulph
 " or bay now called *Fundy* to the river *St. Croix*, and to the
 " remotest western spring-head of the same; whence by an
 " imaginary line conceived to run through the land north-
 " ward to the next road of ships river or spring discharging
 " itself into the great river of *Canada*, and proceeding thence
 " Eastward along the shores of the sea of the said river of
 " *Canada* to the road haven or shore commonly called *Gaspie*,
 " and thence South Eastward [*versus Euronotum*] to the
 " islands called *Baccalaos* or cape *Britton*, leaving the said
 " islands on the right, and the gulph of said great river of
 " *Canada* and the lands of *Newfoundland*, with the islands to
 " those lands pertaining, on the left; and thence to the pro-
 " montory of cape *Britton* aforesaid, lying near or about
 " the

On

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" the latitude of forty five degrees, and from the said promontory of cape *Britton* towards the South and West to the
 " aforefaid cape *Sable* where the perambulation began, including and comprehending within the said shores of the
 " sea, and their circumferences from sea to sea, all lands of
 " the continent, with the rivers, torrents, bays, coasts, islands
 " or seas lying near or within fix leagues of any part of the
 " same on the Western, Northern, or Eastern parts of the
 " shores, coasts and precincts thereof, and on the South East
 " [*ab Euronoto*] where cape *Britton* lyeth, and on the Southern
 " part of the same where cape *Sable* is, all seas and islands
 " towards the South within forty leagues of the said shores of
 " the same, including the great island commonly called the
 " isle of *Sable*, lying South South West [*k*] about thirty
 " leagues from said cape *Britton* in the sea, and in latitude of
 " forty four degrees, or thereabouts, to be called in all future
 " times *Nova Scotia* in *America*."

In witness whereof the king thereby commanded his great seal to be affixed, *James* marquis of *Hamiltoun*, *George* earl marshall lord *Keth*, *Alexander* earl of *Dumferling* the kings chancellor, *Thomas* earl of *Melrois* his secretary, his counsellor Sir *Richard Cokburne* keeper of the privy seal, *George Hay*

[*k*] In my copy, which is authenticated on every page, the seas and islands lying towards the South comprehended in this grant are thus described. *Et ab euronoto ubi jacet cap Britton et ex australi parte ejusdem ubi est cap de Sable omnia maria ac insulas versus meridiū intra quadraginta leucas dictarum orarum littoralium earundem magnam insulam vulgariter appellat' isle de Sable vel Sablon includen' jacent' versus Carban' vulgo South South East circa triginta leucas a dicto cap Britton in mari et existen' in latitudine quadraginta quatuor graduum aut ea circa.* The middle of the isle of *Sable*, according to Dr. *Mitchels* map, lies about S. S. W. from cape *Britton*.

Every one knows that the ancients differed much in their sense of the words used to denote the several divisions of the whole circuit of winds or of the horizon. *Carbas*, according to Dr. *Littleton*, means a southerly and westerly, the South-west wind. According to Mr. *Ainsworth* the South-west wind; and the *Italians* by *Garbino* mean the S. W. wind; wherefore I am inclined to think that by some casual mistake in the original charter, the record, or my copy, the words S. S. E. have taken place of S. S. W. Having observed thus much the reader may correct this point at his pleasure, if he think it worthy of his attention.

clerk of the rolls register and council, *John Cockburne* clerk of the justiciary, *John Scott* director of the chancery, knights, being witnesses. Signed by the king at *Windsor* on the 10th day of *September*, and subscribed by the chancellor, treasurer, secretary, and the rest of the lords commissioners, and of the privy council of the said kingdom of *Scotland*.

From what precedes it is evident that the chief part of the lands granted for the settlement of a *Scotch* colony in *America* was before granted under the great seal of *England*, and comprized within the limits of the second *English* colony established there; and the whole grant to Sir *William Alexander*, according to my plain sense of it, was derogatory to the right of the crown of *England*, all the lands thereby granted being parcel of the dominion thereof, and in which right king *James* actually held the same at the time when by his charter, as far as in him lay, he thus annexed them to the crown of *Scotland*.

"This grant to Sir *William Alexander* was confirmed by "a patent from king *Charles* the First, dated the 12th of *July* "1625, which patent marks out the same limits; being al- "most word for word the same with the preceding.

"In consequence of these grants, Sir *William Alexander* "took possession of this country, made a settlement at *Port* "Royal, and built a fort there; and having given leave to "Claude de la Tour, and his eldest son *Charles*, to improve "lands and build within the said territory for their own "advantage, in consequence thereof they made a settlement, "and built a strong fort upon *St. Johns* river called Fort la "Tour."

This account we have in the memorial of the *English*, commissaries concerning the limits of *Nova Scotia* or *Acadia*, dated at *Paris* the 11th of *January* 1751, and published with others at *London* in 1755 [1]. The *English* and *French* historians agree in saying that in 1622. Sir *William Alex-*

[1] Page 41.

ander sent a ship with persons to plant and settle a colony in *Nova Scotia*—that setting out too late in the year they were forced to winter at *St. Johns* in *Newfoundland*—that the next year proceeding on their voyage they visited several harbours in *Nova Scotia*, but returned in that year or the next; and I have not been able to find that any other ship was ever sent from *Scotland* upon this service.

In order to settle this colony an extraordinary project was formed, and approved by the king, that a dignity, new in *Scotland*, should be conferred on the undertakers, of which *Chamberlayne* gives this account. “The order of *Baronet* in “*Scotland* was first erected for advancing the plantation of “*Nova Scotia* in *America*, and for settling a colony there, to “which the aid of these knights was appropriated: This or- “der was designed by king *James* the Sixth before his death, “but was not actually founded till the time of king *Charles* “the First (A. D. 1625) who disposed to each of these “knights a certain portion of land in *Nova Scotia*; and “for their further encouragement, did constitute and or- “dain that heretable state and stile of *Baronet*, to be en- “joyed by every of these gentlemen who did hazard their “lives for the good and increase of that plantation, and “their heirs male for ever, with priority and precedency “before all knights called *Equites Aurati*, all lesser Barons “commonly called *Lairds*, and before all other Gentlemen “(except Sir *W. Alexander*, his majestys lieutenant of *Nova Scotia*, and his heirs, their wives and children) and that to “the Christian name of these knights should be added the “title Sir *A. B. Baronet*; and his sons wives should enjoy the “title and appellation of lady, madam and dame respectively, “according to the usual phrase in speaking and writing. “The king promising that the number of *Baronets* in *Scot-* “*land* should not exceed the number of 150, and that he “would not create any other dignity or order superior to that “of *Baronet*. Further to adorn this order, they were allowed

“ to wear and carry about their necks, in all times coming,
 “ an orange tawny silk ribbon, whereon was to hang pendant,
 “ in a scutcheon argent, a saltire azure, and thereon an in-
 “ escutcheon of the arms of Scotland, with an imperial crown
 “ above the scutcheon, and incircled with this motto, *Fax*
 “ *mentis honestæ gloria*. All which grants are registered in the
 “ books of *Lion king of Arms*, and the heralds, there to remain
 “ ad *futuram rei memoriam*. But after the selling of *Nova*
 “ *Scotia* to the *French* this order became an honourable title
 “ in *Scotland*, conferred at the kings pleasure without limita-
 “ tion of number [*m*].”

From others it appears that at their first institution these baronets in addition to their coats of arms were to bear, either on a canton, or inescutcheon, according to their option, the ensign of *Nova Scotia*, being argent a cross of *St. Andrew* azure, charged with an inescutcheon of the royal arms of *Scotland*, supported by the royal unicorn on the dexter, and by a savage on the sinister, and for the crest a branch of laurel, and a thistle issuing from two hands conjoined, the one armed, the other naked, with this motto, *Munit hæc, et altera vincit*—that the patents of their creation were ratified in parliament, and---that in 1629 his majesty, by a letter directed to the privy council of *Scotland*, allowed his said lieutenant and the baronets, and their heirs male to wear the ribban, and bear the arms with the motto already mentioned by *Chamberlayne*.

Notwithstanding the creation of these numerous baronets in order to plant the colony proposed, to which use their aid was appropriated, I cannot find that in consequence thereof any thing was actually done for the settlement of it, which was indeed in a short time rendered impracticable by the influence which the *French* court gained over king *Charles* upon his marriage, whereby he was prevailed on to give up the whole country to *France*. Sir *Lewis Kirk* and *John Kirk* Esq. his brother, in their petition to king *Charles* the Second and his

[*m*] Present State of *Great Britain*, Part ii. Book iii.

council, set forth among other things that upon the marriage *l'Acadie*, or *Nova Scotia*, was by order of the king of *England* returned into the possession of the *French*. The date or other particulars of this order I have not been able to discover. *Ogilby*, who was cosmographer to king *Charles* the Second, has given us the principal parts of this petition, including this particular [*n*]; and another part of this petition being produced by the *English* commissaries, saving some little difference altogether immaterial, it agrees with the same part as it stands in *Ogilby*.

The last mentioned part of the petition contains the following particular account of the facts next proper to be stated.

“Afterwards a war arising between his majesty king, “*Charles* I. and *Lewis* XIII. anno 1627 and 1628, Sir “*David Kirk* and his brethren and relations of *England*, “did by virtue of his majestys commission, send to sea at “their great charge, first three, afterwards nine ships, with “warlike preparations, for the recovering of the possession of “the said lands, lying on either side of the said river of *Canada*, and to expel and eject all the *French* trading in those “parts; wherein they had good success; and in the year “1627 did there seize upon about eighteen of the *French* “ships, wherein were found 135 pieces of ordnance designed “for the relief of the *Royal Port* in *Acadia*, and *Quebec* in “*Nova Francia*, under the command of M. *de Lockman* [*o*], “and M. *de la Tour*, father of *de la Tour* governor of the said “*Royal Port*, whom, together with the said ships and guns, “they brought into *England*.”

“And in the year 1628 they possessed themselves of the “whole region of *Canada* or *Nova Francia*, situate on the “north side of the river, together with the fort or castle of

[*n*] *America*, Book ii. Chap i. Sect 5. copy produced by the commissaries, is

[*o*] The *French* commander here named *Rockmand* in *Ogilby*, and in named *Lockman*, according to the *Charlevoix*.

“ *Quebec*, Sir *Lewis Kirk* being then constituted governor of
 “ the place, the *French* being then either expelled or con-
 “ veyed into *England*, and the arms of the king of *England*
 “ being publicly there erected and every where placed: and
 “ before the year 1628 it was brought to pass by the said Sir
 “ *William Alexander* (assisted by both the advice and charge
 “ of the said *Kirk*) that in the parts of *Acadia* or *Nova*
 “ *Scotia*, on the south side of the river *Canada*, the whole,
 “ with the forts thereon built, being by him subdued, presently
 “ came under the power of the king of *England*, that region
 “ on the south side falling into the possession of the said Sir
 “ *William Alexander*, and that on the north side into the pos-
 “ session of the *Kirks* [p].”

In the year 1630 Sir *William Alexander*, in consideration A. D. 1630.
 of the great expences of *Claude de la Tour* and his son *Charles*,
 and their services in promoting settlements, conveyed by deed
 to them and their heirs for ever all his right in *Nova Scotia*,
 excepting *Port Royal*, to be held under the crown of *Scot-*
land [q].

By the treaty made at *St. Germain en Lay* on the 29th of A. D. 1632.
March, 1632, between the kings *Lewis XIII.* and *Charles I.*
 for the restitution of *New France*, *Acadia* and *Canada*, on the
 part of his majesty of *Great Britain* his ambassador promised
 to restore to his most *Christian* majesty all the places possessed
 in *New France*, *Acadia* and *Canada* by the subjects of *Great*
Britain; in pursuance whereof the whole was restored.

The grievous effects of this restitution that have been felt
 from generation to generation need not be set forth, and the
 injurious nature of this treaty with respect to the public, as well
 as to the persons who had recovered these countries out of the
 hands of the *French*, will in part appear from the authentic
 declaration of king *Charles* himself, contained in his letters
 patent issued under the great seal of the kingdom of *England*,
 on the 11th day of *May* 1633, wherein it is thus recited and A. D. 1633:

[p] Memorials of the *English* commissaries &c. p. 569.

[q] Id. p. 41, 42.
 declared..

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declared. “ Whereas all and singular the regions, countries,
 “ dominions, territories, continents, islands, coasts and places
 “ adjoining upon the gulph and river, called or known by the
 “ name of *Canada*, and all and singular ports, havens, rivers,
 “ gulphs, creeks, islands and places in the parts of *America* to
 “ the said gulph and river of *Canada* adjoining, were first
 “ discovered in the reigns of king *Henry* the Seventh and
 “ queen *Elizabeth* our noble predecessors, and by commission
 “ and command from them. And whereas by the humble
 “ petition of our welbeloved subjects and servants Sir *William*
 “ *Alexander* knight, *George Kirk* esquire, gentleman of our
 “ robes, *David Kirk* esquire, one of our pensioners, *Lewis*
 “ *Kirk*, *Thomas Kirk*, *John Kirk* and *James Kirk* gentlemen,
 “ and *William Barkley*, *Joshua Gallard* and *Charles Atty* of
 “ *London* merchants, unto us exhibited, we have been inform-
 “ ed that some of them in the late wars between us and our
 “ good brother the *French* king set to sea sundry ships in
 “ warlike manner, wherewith they did surprize the *French*,
 “ and with the hazard of their lives and fortunes did take the
 “ said country of *Canada* to our use, and to the honor of our
 “ kingdom; and in the year following we did grant a com-
 “ mission unto them, authorizing and commanding them to
 “ take the fort of *Quebeque*, and utterly from thence to expel
 “ the *French*, which accordingly was performed by them, to
 “ the very great charge of them, the taking and keeping
 “ whereof since that time hath cost them and their partners
 “ the sum of fifty thousand pounds at the least, to the great
 “ weakening and impairing of their estates, which they are
 “ no ways able to recover, in regard we have lately signified
 “ our royal pleasure to them, commanding them to restore
 “ the said fort of *Quebeque* to our said brother the *French*
 “ king, without any satisfaction to them for their aforesaid
 “ great disbursements, which was accordingly performed by
 “ them; and that in consideration of the great benefit which
 “ hereafter may redound to us, and unto this realm in general,
 “ in

“ in that the said country yields the several commodities of
 “ beaver skins, elk skins, and sundry other furs, as also all
 “ materials for shipping, as masts, pitch, tar, deals, hemp,
 “ and other commodities beneficial to this kingdom; as also
 “ that it may hereafter greatly serve to the furthering of our
 “ subjects in the fishing trade, and vending divers manu-
 “ factures made within this our kingdom of *England*, to the
 “ great increase of our customs, and employments of our sub-
 “ jects at home, and of mariners and much shipping abroad;
 “ and that we were pleased to promise to grant unto them
 “ our letters patents for the sole trading in those parts of
 “ *Canada*, with certain privileges for the better regulating of
 “ the said trade, and to enable them for further discoveries
 “ thereupon to be made. And they have humbly besought
 “ us to grant unto them our letters patents for the sole trade in
 “ the gulph and river of *Canada*, and parts thereunto adjacent,
 “ from the latitude of forty four degrees of northern latitude
 “ towards the south, to the latitude of fifty four degrees to
 “ the northward, for one and thirty years, and to plant and
 “ fortify in such place and places as they shall find fit for the
 “ strengthening and maintaining of the said trade, with such
 “ privileges, immunities and liberties as we have been graci-
 “ ously pleased to grant to other our subjects in the like kind,
 “ which petition we referred to the consideration of the lords
 “ and others of our privy council, they for their better infor-
 “ mation referred the same to our attorney general, who made
 “ certificate to their lordships that if that might stand with
 “ the treaties between us and foreign princes he did not know
 “ any impediment but that we might grant liberty to some,
 “ and inhibit others to trade there, as is done in *Guinea*,
 “ *Benny*, *Russia*, &c. whereupon their lordships prayed Sir
 “ *John Coke* knight, one of our principal secretaries of state,
 “ to peruse the last treaty between us and our good brother
 “ the *French* king, who certified he found nothing desired by
 “ the petitioners contrary to the treaties with our allies,
 “ Know

The ANCIENT RIGHT of the ENGLISH NATION

“ Know ye that we minding the accomplishment of our pro-
 “ mise, and as well in recompence of their said charge and
 “ labour, as for encouragement of others that shall undertake
 “ the like enterprizes, and for our own honour, and the good
 “ of this our realm, we have resumed and taken into our
 “ own actual possession and royal hand and protection the
 “ trade after specified within the gulph and river called *Ca-*
 “ *nada*, and in all the territories, continents, islands, gulphs,
 “ rivers, coasts, and places adjoining to the said gulph and
 “ river, within the said four and forty and four and fifty de-
 “ grees adjoining upon the said gulph and river. And of our
 “ especial care, certain knowledge and mere motion have
 “ granted and demised, and by these presents for us, our heirs
 “ and successors do grant and demise unto the said Sir *William*
 “ *Alexander*, *George Kirk*, *David Kirk*, *Lewis Kirk*, *Thomas*
 “ *Kirk*, *John Kirk*, *James Kirk*, *William Barkley*, *Josbua*
 “ *Gallard*, and *Charles Atty*, their executors, administrators
 “ and assigns, the sole trade in all and singular regions, coun-
 “ tries, dominions, territories, continents, coasts, rivers, gulphs
 “ and places adjoining to any part of the said gulph and
 “ river, and lying and being within the limits and bounds
 “ hereafter mentioned, that is to say, beginning from the
 “ northerly latitude of fifty four degrees, extending from
 “ thence to the forty four degrees of southerly latitude by all
 “ the length of the said gulph and river, with all the islands
 “ neer adjoining to that coast, and comprehended within
 “ the degrees aforesaid, and the sole trade and traffique
 “ from thence, and in those places for beaver skins, beaver-
 “ wool, furs and skins of wild beasts, and for all such com-
 “ modities as are usually carried from hence into the said
 “ gulph or river, or coasts adjoining, to be exchanged, mer-
 “ chandized or bartered, so as no other of the subjects of us,
 “ our heirs or successors, for merchandizing buying or ex-
 “ changing of beaver skins, beaver-wools, furs and skins of
 “ wild beasts, shall haunt or frequent any of those places.

“ To

“ To have and to hold the said sole trade unto the said Sir
 “ *William Alexander, George Kirk, David Kirk, Lewis Kirk,*
 “ *Thomas Kirk, John Kirk, James Kirk, William Barkley,*
 “ *Joshua Gallard and Charles Atty,* their executors, admini-
 “ strators and assigns, from the date of these presents for and
 “ during the term, and unto the full end and term of thirty
 “ and one years from thence next ensuing, and fully to be
 “ compleate and ended.”

The proceedings subsequent to these letters patent will ap-
 pear from the following part of the afore said petition, to wit,

“ By virtue of which commission Sir *Lewis Kirk* and his
 “ brother *John Kirk*, and his associates, in the month of
 “ *February* next following set forth a ship called the *Merry*
 “ *Fortune*, laden with goods of a considerable value, consigned
 “ to those parts, where during her trading there, without any
 “ just offence given, and in time of peace, she was by the
 “ *French* forceably seized on, and carried into *France*, and her
 “ lading, as if she had been lawful prize, confiscated; where-
 “ upon the *Kirks* suffered loss to the value of twelve thou-
 “ sand pounds. And although the lord *Scudamore*, ambassa-
 “ dor in *France*, by the king of *Englands* special command,
 “ and the said *John Kirk* being there in person, by the kings
 “ command, did often earnestly urge that the moneys due to
 “ the said *Kirks* [r], and the said ship, with her lading, might
 “ be restored, which for no other cause had been seized upon
 “ and sold, but only for that by the kings commission she was
 “ found trading at *Canada*; yet he could obtain nothing, but
 “ after some years fruitless endeavours returned into *England*
 “ without accomplishing his desires.”

Having concluded this strange scene, and shewn how the
English lost, the *Scotch* some time held, and the *French* finally

[r] This relates to the charges of both which by the 4th and 5th articles
 carrying home the *English* subjects up- were to be paid by the *French*, and
 on delivering up the countries accord- which amounted to 5000 *l.* sterling, as
 ing to the treaty, and to the value of is set forth in another part of the said
 their merchandize remaining unfold; petition.

got firm hold of the western part of *Baccalaos*, it is next to be observed that their influence over king *Charles* did not rest here, but was extended to other parts of it. Bishop *Burnet* [s] says "The *English* have always pretended that the first discovery of *Newfoundland* being made in *Henry* the Seventh's time the right to it was in the crown of *England*. The *French* had leave given them in king *Charles* the First's time "to fish there, paying tribute as an acknowledgment of that licence. It is true," he adds, "they carried this much further during the civil wars, and this grew to a much greater height in the reign of king *Charles* the Second." And in the *British Merchant*, first published in the year 1713, a work composed by *Henry Martin* esquire, Sir *Charles Cooke*, Sir *Theodore Janssen*, *James Milner* esquire, Mr. *Nathanael Torriano*, Mr. *Joshua Gee*, Mr. *Christoph. Haynes*, Mr. *David Martin*, and several other very able and worthy merchants, *Charles* late earl of *Halifax* being the support and spirit of it, it is said, "The world is well amended with the *French* since the time that they paid a tribute for the liberty "of curing and drying fish at *Newfoundland*, which was "granted to them by king *Charles* I, in the 10th year of his "reign [t]." And a little after it is said, "They [the *French*] first obtained leave to fish upon paying a duty of "5 per cent. afterwards they got that acknowledgment relinquished [u].

Temp. Crom.

S E C T. V.

A. D. 1654. **I**N the year 1654 *Oliver Cromwell*, with proper forces, took *Acadia* from the *French*.

A. D. 1655. In the year 1655 a treaty of peace between *England* and *France* was made at *Westminster*, by the 25th article whereof the contest respecting *Acadia* was agreed to be referred to

[s] Hist. of his own Time, vol. ii.
p. 619.

[t] Vol. ii. p. 253.

[u] Ibid. p. 254.

commissioners

commissioners to be appointed within three months, in consequence whereof nothing effectual being done the country continued in the hands of the *English*. The *French* ambassador often urged restitution; but *Cromwell*, moved by the consideration of the ancient right of the *English*, which was the cause of his taking it, resolutely kept possession of it.

S E C T. VI.

Temp. Car. II.
& Jac. II.

IN the year 1667 a treaty of peace being concluded at *Breda*, A. D. 1667. between the kings *Lewis XIV* and *Charles II*, by the 10th article the king of *Great Britain* agreed to restore *Acadia* to the *French* king; and disputes afterwards arising relative to its extent Westward, it was agreed and determined by king *Charles* that the same extended to the river *Pentagoet* or *Ponobscot*, and all the country extending thence eastward to the gulph of *Canada*, and lying between the river *Canada* on the North, and the *Atlantic* ocean on the South, containing all the lands granted to Sir *William Alexander*, together with the lands lying between the rivers *St. Croix* and *Ponobscot*, was in the year 1670 delivered up to the *French* king accordingly.

In this kings reign the *French* began their encroachments at *Placentia* in *Newfoundland*, of which *Charlevoix* [w] gives this account, " Before the year 1660 the court of *France* intermeddled itself little with that island, it left the matter almost wholly to private persons, who fitted out at their own expence to send fishers thither. At length that same year the sieur *Gorgot* obtained of the king the grant of *Placentia* harbour, with a commission of governor. He found great opposition at taking possession, and it is very likely he was obliged at the first to desist from his right of concession, and that he held the title of governor but a short time; for some years after the sieur *De la Poype*

[w] *Hist. de la Nouv. France*, tom. i. p. 423.

“ having been sent to *Placentia* with a commission from court
 “ to take possession in the king's name of the fort and habi-
 “ tation, and to reside there in quality of governor, it was
 “ remarked in his instructions, That his majesty had been ex-
 “ cited to assure himself of that place, and to settle a colony
 “ there, to maintain his subjects in possession where they had
 “ been a long time, to carry on there yearly a considerable
 “ fishery of dry fish, and through fear of being prevented
 “ by the *English*.” Although the rights of his crown,
 and the welfare of his kingdom, called upon king *Charles*
 effectually to repel this encroachment we are not to won-
 at his suffering it, considering his servile attachment to
France. Bishop *urnet* [x] says. “ His contributing so
 “ much to the raising the greatness of *France*, chiefly at
 “ sea, was such an error, that it could not flow from want
 “ of thought, or of true sense. *Rouvigny* told me he
 “ desired that all the methods the *French* took in the increase
 “ and conduct of their naval force might be sent him. And,
 “ he said, he seemed to study them with concern and zeal.
 “ He shewed what errors they committed, and how they
 “ ought to be corrected, as if he had been a viceroy to *France*,
 “ rather than a king that ought to have watched over and
 “ prevented the progress they made, as the greatest of all the
 “ mischiefs that could happen to him, or to his people.”

It is observable that about the time when *Lewis XIV* en-
 croached thus on *Newfoundland* he formed the design of
 making himself powerful at sea, of which a *French* author
 gives this account. “ His majesty, whose arms were dreaded
 “ on land, had conceived the design of making them respected
 “ upon the sea, and of availing himself of the happy situa-
 “ tion of the havens of his kingdom; an advantage too long
 “ neglected by the kings his predecessors. He had no sooner
 “ charged *M. Colbert* to work on this grand project, than
 “ that minister exerted his utmost vigilance and skill to per-

[x] Hist. of his own Time, vol. i. p. 614.

“fect it forthwith. A great number of ships and gallies
 “were built in a short time. The arsenals built at *Mersail-*
les, Toulon, Brest and *Rocheport* were supplied with every
 “thing necessary for the arming and fitting out several fleets.
 “A multitude of marine officers, pilots and sailors appeared
 “formed almost at once for the most difficult undertakings.
 “In short all the resources of this new establishment were
 “conducted with such prudence and spirit, that it struck the
 “most experienced nations in navigation with equal surprize
 “and jealousy.” And the authors of the *British Merchant*,
 speaking of the *Newfoundland* fishery [y], observe that the
French “from their first attempts to make themselves con-
 “siderable at sea have had it perpetually in view.”

The *French* king having thus gained *Acadia* by cession,
 and encroached on *Newfoundland*, afterwards made a new
 encroachment on the coast of the continent, by extending the
 limits of the former to the island *St. George*, at the mouth of
 the river *St. George*, that is, about 30 miles to the westward
 of *Ponobscot* river, of which encroachment, with his proceed-
 ings in maintenance of it, we have the following authentic
 proof, contained in a memorial presented by his ambassador to
 king *James II*, January 16th 1685. “The coast of *Acadie*, A. D. 1685.
 “which extends itself from the island *Percée* [z] to that of
 “*St. George*, was possessed by the *French* till the year 1654,
 “when the *English* invaded it during the war, and it was
 “restored to his majesty in 1667, by the treaty of *Breda*;
 “thus his majesty has for title of his sovereignty and seigniory
 “of the said coast, the first occupation of his subjects, a long
 “possession, and a treaty of peace; however not finding in
 “*New England* the same advantages which they found in
 “*Acadie* they have continued to fish in the havens belonging
 “to his majesty, sometimes by virtue of permissions given

[y] Vol. ii. p. 256.

at the entrance of the river *Canada* or[z] Which lies near cape *Roziers*, *St. Laurence*.

“ them.

“ them by the governor, and very often without permission;
 “ so that the trade of the *French* is thereby interrupted. In
 “ the month of *December* 1683 his majesty granted permission
 “ by letters patent to the sieur *Bergier*, and his company, to
 “ establish a permanent fishery [*une peche sedentaire*] all along
 “ the coast, and the river of *St. John*, and in the month of
 “ *March* 1684 published an edict, by which his majesty de-
 “ clared that foreign vessels which should be found trading for
 “ skins, or fishing within the extent of the grant which he
 “ had made along the said coast to the said company should
 “ be taken and arrested, and brought into the havens of his
 “ kingdom, to be there confiscated.”

“ This edict was published and made known to the *Eng-*
 “ *lish* of *New England*, who forbore not to come and fish
 “ within the extent of the said grant, which the said
 “ *Bergier*, who was then there with the ship *St. Lewis*, having
 “ advice, stopt in the month of *July* and *August* 1684 eight
 “ *English* barks, named the *Mary*, the *Adventure*, the *Swal-*
 “ *low*, the *Rose*, the *Industry*, the *Lark*, the *Friendship*, and
 “ the *Industry*, out of which he took only the fish and the
 “ skins, and brought into *France* the masters of the said barks,
 “ who were interrogated before the officers of the admiralty
 “ of *Rochelle*.”

“ By the examination which his majesty made of the pro-
 “ cedure of the said officers he found that two masters had
 “ obtained permission of the sieur *de la Valiere* to fish along
 “ the coast, whereupon his majesty ordered that they should
 “ be carried back to *Acadie* at the expence of the said *Ber-*
 “ *gier*, and of his company, and that their barks and mer-
 “ chandize, or the value thereof, should be restored without
 “ any damages, and interests.”

“ With respect to the other six his majesty ordered confis-
 “ cation of them, they having had no permission; it being
 “ moreover agreed that they had knowledge of the express
 “ prohibitions

“ prohibitions which his majesty had made of trading and
“ fishing on the said coast of *Acadie* [a].”

And thus the *French* king having without any colour of right or justice encroached on these thirty miles of the *English* coast, by the cession of *Acadia*, with this encroachment, and the acquiescence of king *James*, it is manifest the fishing colonies of *New England*, which were the chief strength of the *English* in those parts, and all the other *English* subjects, were wholly deprived of the right and benefit of fishing and trading on any part of the coast lying to the eastward of *St. Georges* island; and from the memorial of the *French* ambassador it is evident his master maintained the most notorious usurpation, together with his right obtained by cession, by seizure and confiscation of the vessels of *English* subjects, the conduct of whose princes in submitting to these intrusions was apparently incompatible with the sacred trust reposed in them, of preserving their dominions, and protecting their people.

“ M. de Meules, intendant of *New France*, having in the late part of the year 1685 visited *Acadie*, in that year, or the beginning of the next, informed the *French* ministry that the most useful settlement his majesty could make in *America* was that of *Acadie*.” He wrote at the same time to the king with respect to *Acadie*, “ that nothing hindered settling fisheries there; but that to do it securely it was necessary to people and fortify *Port Royal*, and to build a good fort at *Pentagoet*, to serve as a barrier of *Acadie* against the *English*; that if moreover some expence were bestowed upon port de la *Heve*, in the island of cape *Breton*, in the island *Percée*, and *Placentia* in *Newfoundland* fortified, where the sieur *Parat*, who commanded there, was too weak to defend himself, if attacked, *France* would be sole mistress of the cod [b].”

[a] Memorials of the *English* Commissioners, &c. p. 614.

[b] *Hist. de la Nouv. France* par Charlevoix, tom. i. p. 520, 521.

A. D. 1686.
Nov. 16 N. S.

In the year 1686 a treaty of peace, good correspondence and neutrality in *America*, was concluded at *Whitehall*, between the kings *James II* and *Lewis XIV*, by the 4th and 5th articles whereof it was agreed, "That both kings should have " and retain to themselves all the dominions rights and pre- " eminences in the *American* seas, roads and other waters " whatsoever, in as full and ample manner as of right belong- " ed to them, and in such manner as they then possessed the " same. And therefore the subjects, inhabitants, merchants, " commanders of ships, masters and mariners of the kingdoms, " provinces and dominions of each king respectively should " abstain and forbear to trade and fish in all the places pos- " sessed, or which should be possessed, by one or the other " party in *America* [c]."

[c] Having seen in the *Daily Advertiser* of the 3^d of February last the following paragraph, to wit, "*Plsmouth*, " *January 30th* came in the *St. Joseph*, " a large *French* fishing-boat from " *Dieppe*, with turbot, which they " have caught on the *English* coast. " They were forced in here by contrary " winds and bad weather. If these " boats are permitted to come in fleets " of twenty or thirty sail to fish as " they did in the last peace so near our " coast, the societys machines will soon " return from *Devonshire* without fish, " and *Paris* will be abundantly sup- " plied from *Dieppe*."—In order to shew the conduct of the kings *Charles I.* and *II.* and of *James II.* when lord high admiral, with respect to the chan- nel fishery, it may not be amiss here to insert, from a collection published in the year 1729, under this title, "*Me- " moirs of the English affairs, chiefly " naval, from the year 1660, to 1673.* " Written by his Royal Highness *James " duke of York*, under his administra- " tion of Lord High Admiral, &c. " Published from his *Original Letters*,

" and other *Royal Authorities*," the copy of a letter, dated *July 1 1661*, written upon this subject by the secre- tary of his royal highness, to the right honourable the earl of *St. Albans*, his majestys ambassador extraordinary at *Paris*, to wit,

" MY LORD,

" His royal highness having shewed " me a letter of your lordships, con- " cerning the complaint of the *French* " fishermen, I hold it my duty to give " your lordship this account of it, un- " til a more perfect can be sent to " your lordship; for the doing whereof " I sent immediately to the mayors of " *Rye* and *Hastings*, to send his royal " highness an account (under their " town seals) of the grounds on which " they pretend the *French* ought not to " fish on our coast."

" I have in my hands an order of " council of the 13th of *August 1660*, " whereby it is ordered that his royal " highness take care that the peti- " tioners just complaints and grie- " vances, contained in the annexed " schedule, be by all due means re-

S E C T. VII.

Temp. W. III.

THE colony of *Massachusetts Bay* considering the great advantages that would redound to the *English* nation in general, and to themselves in particular from the reduction of *Acadia*, raised and prepared for this purpose about seven hundred men, with a proper naval force, with which Sir

A. D. 1690.

“dressed. In the schedule signed by
 “the clerk of the council (which is a
 “representation of the grievances presented from the cinque ports) the
 “first article is, that by the ancient
 “usage and custom within the cinque
 “ports and their members, no *Frenchmen* or foreigners whatsoever have
 “been permitted to fish on those coasts
 “(accounting at least half seas-over
 “every where to the *English* nation)
 “except only, since the alliance betwixt *England* and *France*, about four
 “or six boats in one year, which had
 “first obtained special licence and allowance thereto from the lord warden of the cinque ports, granted in
 “favour of the *French* court, and for
 “the kings own use. Upon this there
 “was about fourteen [years] after a
 “ship sent from the *Downs* on purpose
 “to give notice to the *French* fishermen, that they were to forbear fishing any more upon that coast; and
 “that if they did not their nets should
 “be taken from them; but for that
 “time no violence was offered to
 “them. Since that the governor of
 “*Dieppe* sent to desire licences, and obtained nine. Some time since, the
 “complaint being renewed of the fishing of the *French*, his royal highness
 “ordered a ship to that coast to take
 “their nets, which was accordingly
 “performed, but restored again, the
 “*French* satisfying the losses of an
 “*Englishman*, from whom the *French*

“were insolent enough to take nets
 “on our own coast, to which the persons whose nets were seized, were so
 “far privy, that when they perceived
 “their nets would not be restored
 “without the condition of repairing the
 “*Englishman*, they found means to restore the greatest part of his very
 “nets. That prize being so restored,
 “another was taken, which was by his
 “royal highness likewise ordered to be
 “restored, without any other penalty
 “than paying to the captain which
 “took them 15 *l.* by way of reward
 “for his service, and the cost of drying
 “their nets. The value of them, I
 “conceive, may have been about 500 *l.*
 “The proceeding, I suppose, cannot
 “but appear both gentle and slow
 “enough, especially since the complaint of the *French* is so great, that
 “the officers of the kings household
 “have it as a reason why the kings
 “house is dearly and ill served. His
 “royal highness hath, within these two
 “days, resolved to restore a third
 “parcel of nets, which is all which remains seized; and it will be executed
 “as soon as his royal highness returns
 “from *Cambridge*, whither he is this
 “day gone. I am

My lord

Your lordships

most humble and
obedient servant

Will. Coventry.

Willia. 1

William Phips compelled the *French* to surrender *Port Royal* and the whole country to the obedience of the crown of *England*, whereupon he sent away the *French* garrison, took an oath of allegiance from the *French* planters to their majesties king *William* and queen *Mary*, and made proper provision for their present government.

A. D. 1697.
Sept. 10 O. S.

In the year 1697 a treaty of peace being concluded at *Ryswick* between the kings *William III* and *Lewis XIV*, by the 7th article it was agreed that mutual restitution should be made of all the countries, forts and colonies taken by each party during the war; and by the 8th article it was agreed that commissioners should be appointed on both sides, who immediately after the ratification of the treaty should be invested with sufficient authority for settling the limits and confines of the lands to be restored on either side by virtue of the aforementioned article.

A. D. 1698.

In the year 1698 the *French* attempted to make a new encroachment, by extending *Acadia* to the river *Kennebec*, lying about 35 miles to the westward of *St. Georges* island, of which attempt we have the following proof, contained in a letter from *M. de Villebon*, governor of *Acadia*, to *M. Stoughton*, lieutenant governor of the *Massachusetts Bay*, wherein he says, " I am informed that you have several fishers on
" our coasts, and you moreover permit your people to trade
" in the *French* habitations; you must understand, Sir, that
" I shall cause all the *English* who shall be found fishing or
" trading to be taken, and so much the rather as you cannot
" be ignorant that it is absolutely forbidden by the treaty be-
" tween our crowns, which you yourself have sent to me, and
" that *M. de Bonaventure*, commanding this year the kings
" ship the *Envieux*, hath ascertained this to you, by sending
" back to you upon his arriving on these coasts some vessels
" of your fishers which he had taken, by them informing you
" by order of the king that upon returning again [*que s'il en*
revenoit

“ *revenoit encore*] for fishery or trade they should be good
“ prize.”

“ I have order from the king my master to conform myself
“ to the treaty of neutrality concluded at *London* the 16th of
“ *November* 1686 with king *James* touching the *Americans*.”

“ I am also expressly charged by his majesty to maintain
“ the bounds which are between *New England* and us, which
“ are from the head of the river *Kennebec* to its mouth, leaving
“ free its stream to both nations; so I doubt not, Sir, but
“ you will conform thereunto, and that you will cease to
“ treat the savages settled there as your subjects, to avoid all
“ the sad consequences which may happen therefrom by their
“ vicinity to you. Nothing remains for me but to assure you
“ that I shall do all that shall depend upon me for the execu-
“ tion of the orders which I have received from his majesty.
“ I am” &c.

“ Mouth of *St. Johns* river, *September* 5th 1698 [*d*].”

And thus the most flagrant usurpation was to be made in
time of peace, and supported by a savage war.

King *William* and his parliament concluding all foreign A. D. 1699.
fishing at *Newfoundland* to be mere intruders, by an act passed Cap. 25.
in the 10th and 11th years of his reign, excluded them from
all trade and fishing there, in the following words, “ Whereas
“ the trade of and fishing at *Newfoundland* is a beneficial
“ trade to this kingdom, not only in the employing great
“ numbers of seamen and ships, and exporting and consuming
“ great quantities of provisions and manufactures of this
“ realm, whereby many tradesmen and poor artificers are
“ kept at work, but also in bringing into this nation by re-
“ turns of the effects of the said fishery from other countries
“ great quantities of wine, oil, plate, iron, wooll, and sundry
“ other useful commodities, to the increase of his majestys

[c] Memorials of the *English* commissaries, &c. p. 620.

“ revenue, and the encouragement of trade and navigation :
 “ Be it enacted by the kings most excellent majesty, by and
 “ with the advice and consent of the lords spiritual and tem-
 “ poral, and commons, in this present parliament assembled,
 “ and by the authority of the same, That from henceforth it
 “ shall and may be lawful for all his majestys subjects residing
 “ within this his realm of *England*, or the dominions there-
 “ unto belonging, trading or that shall trade to *Newfoundland*,
 “ and the seas, rivers, lakes, creeks, harbours in or about *New-*
 “ *foundland*, or any of the islands adjoining or adjacent thereunto,
 “ to have, use, and enjoy the free trade and traffick, and art
 “ of merchandize and fishery to and from *Newfoundland*,
 “ and peaceably to have, use, and enjoy the freedom of
 “ taking bait and fishing in any of the rivers, lakes, creeks,
 “ harbours, or roads, in or about *Newfoundland*, and the said
 “ seas, or any of the islands adjacent thereunto, and liberty to
 “ go on shore on any part of *Newfoundland*, or any of the
 “ said islands, for the curing, salting, drying, and husba-ling
 “ of their fish, and for making of oil, and to cut down wood
 “ and trees there for building and making or repairing of
 “ stages, ship-rooms, trainfats, hurdles, ships, boats, and other
 “ necessities for themselves and their servants, seamen and
 “ fishermen, and all other things which may be useful or
 “ advantageous to their fishing trade, as fully and freely as at
 “ any time heretofore hath been used or enjoyed there by any
 “ of the subjects of his majestys predecessors, without any
 “ hindrance, interruption, denial or disturbance of or from
 “ any person or persons whatsoever ; and that no *alien* or
 “ *stranger whatsoever* (not residing within the kingdom of
 “ *England*, dominion of *Wales*, or town of *Berwick upon*
 “ *Tweed*) shall at any time hereafter take any bait, or use any
 “ sort of trade of fishing whatsoever in *Newfoundland*, or in
 “ *any of the said islands* or places abovementioned.

S E C T. VIII.

Temp. An. &
Geo. I, II, &
III.

IN the year 1710 general *Nicholson*, with forces sent from *England*, assisted by a considerable number of troops raised by the *Massachusetts* colony, reduced all *Acadia* or *Nova Scotia*, to the obedience of the *British* crown. A. D. 1710.

In the year 1713 a treaty of peace was concluded at *Utrecht* A. D. 1713.
between their majesties *Anne*, queen of *Great Britain*, and *Lewis XIV*, the *French* king, by the 12th article whereof it March 31.
O. S.
was thus agreed and provided, "The most Christian king
" shall take care to have delivered to the queen of *Great*
" *Britain*, on the same day that the ratifications of this treaty
" shall be exchanged, solemn and authentic letters, or instru-
" ments, by virtue whereof it shall appear that the island of
" *Saint Christophers* is to be possessed alone hereafter by *British*
" subjects; likewise all *Nova Scotia* or *Acadia*, with its an-
" cient boundaries; as also the city of *Port Royal*, now called
" *Annapolis Royal*, and all other things in those parts, which
" depend on the said lands and islands; together with the
" dominion, propriety and possession of the said islands, lands
" and places: and all right whatsoever, by treaties, or by any
" other way obtained, which the most Christian king, the
" crown of *France*, or any the subjects thereof have hitherto
" had to the said islands, lands and places, and the inhabitants
" of the same, are yielded and made over to the queen of
" *Great Britain*, and to her crown for ever, as the most
" Christian king doth at present yield and make over all the
" particulars abovesaid; and that in such ample manner and
" form that the subjects of the most Christian king shall
" hereafter be excluded from all kind of fishing in the said
" seas, bays and other places, on the coasts of *Nova Scotia*;
" that is to say, on those which lie towards the east within
" thirty leagues, beginning from the island commonly called
" *Sable*:"

“ *Sable* inclusively, and thence stretching along towards the South West.”

And by the 13th article it was agreed as follows, “ The island called *Newfoundland*, with the adjacent islands, shall from this time forward belong of right wholly to *Britain*; and to that end the fortrefs of *Placentia*, and whatever other places in the said island are in possession of the *French*, shall be yielded and given up, within seven months from the exchange of the ratifications of this treaty, or sooner if possible, by the most Christian king, to those who have a commission from the queen of *Great Britain* for that purpose. Nor shall the most Christian king, his heirs and successors, or any of their subjects, at any time hereafter, lay claim to any right to the said island and islands, or to any part of it or them. Moreover, it shall not be lawful for the subjects of *France* to fortify any place in the said island of *Newfoundland*, or to erect any buildings there, besides stages made of boards, and huts necessary and usual for drying of fish; or to resort to the said island beyond the time necessary for fishing and drying of fish. But it shall be allowed to the subjects of *France* to catch fish, and to dry them on land, in that part only, and in no other besides that, of the said island of *Newfoundland*, which stretches from the place called cape *Bonavista* to the northern point of the said island; and from thence running down by the western side, reaches as far as the place called *Point Riche*. But the island called *Cape Breton*, as also all others, both in the mouth of the river of *St. Laurence*, and in the gulph of the same name, shall hereafter belong of right to the *French*: and the most *Christian* king shall have all manner of liberty to fortify any place or places there.”

In conformity to this treaty the *French* king, by his letters and authentic acts, signed at *Marli*, dated in the month of *May* in the year 1713, “ did yield up for ever to the said late queen of *Great Britain* the said country of *Nova Scotia*

“ or

" or *Acadia*, in its entire, conformable to its ancient limits,
 " as also the city of *Port Royal*, now called *Annapolis Royal*,
 " and generally all that depends on the said lands and islands
 " of the said country, to be possessed for the future, in full
 " sovereignty and propriety, with all the rights acquired by
 " him the said king, and his subjects, by treaty, or otherwise,
 " by the said queen, and the crown of *Great Britain*, making
 " over to her to this effect full and entire possession for ever ;
 " without permitting [*sans qu'il soit permis*] the subjects of
 " the said king to fish in the seas, bays, or other places within
 " thirty leagues near the coasts of the said *Nova Scotia* to the
 " south-east, beginning at the island of *Sable* inclusively, and
 " from thence drawing to the south-west [*e*].

It is well known that the principal cause of the war concluded by this treaty was the dangerous state into which *Europe* was brought by placing one of the sons of *France* on the throne of *Spain*, the consequent great and immediate influence of the former over the councils of the latter, and the possible future union of both crowns in one person, and his descendants. The general sense of the dangers attending this union is fully expressed in the 6th article of the treaty, and in particular by the *French* king in his letters patent, which are made part of it, wherein he declares that the queen of *Great Britain* caused it to be represented to him, that " all the
 " powers of *Europe* were equally persuaded that it was for
 " their general interest, and for their common security, to
 " continue a war whereof no one could foresee the end, rather
 " than to be exposed to behold the same prince become one
 " day master of two monarchies so powerful as those of *France*
 " and *Spain*"—that the chief object of the war therefore was the effectual and perpetual separation of these two kingdoms—that the plan of this war, with the alliance proper for the support of it, was formed by the great king *William*, whose study and delight was the preservation of the liberties of *Europe*,

[*e*] Memorials of the *English* Commissioners, p. 5.

and whose vigilance, councils, and actions were consequently employed to defeat the dangerous designs flowing from the boundless ambition of *France*, grown formidable by land and sea before getting this hold of *Spain*, and who was not only capable of foreseeing, but also of concerting and pursuing the best measures for preventing future mischiefs that the nature of human affairs, and the state of the times would permit—that heaven favouring their cause blessed the arms of the confederates with victories numerous and glorious.—that upon these defeats *France* having recourse to negotiation, which has so often proved serviceable to her, and fatal to others, all her artful devices were frustrated by the counsels of the confederates, the wiles of the serpent being unequal to the wisdom of those who conducted the affairs of this kingdom, until, the queen forgetting the ancient proverb, which says there is no remedy for the bite of the sycophant, a ministerial revolution took place, in consequence of a pique to an old favorite, and the adoption of a new one more solicitous to please, whereby the most illustrious and accomplished civil and military heroes were unhappily laid aside before they had compleated their work, and the nation had received the proper fruit of their counsels, and of that success which had cost so much blood and treasure, and others of a different character became their successors, over whom *France* gaining the ascendance she obtained a peace prejudicial to the faith and honour of this kingdom, detrimental to its commerce, and dangerous to the general safety of *Europe*; for instead of an effectual separation of the two monarchies, by putting *Spain* and the *Indies* into the hands of others, which the common safety required, the son of *France* was allowed to keep them, and the separation of the monarchies so long and so gloriously contended for, by the conduct of these ministers, was made to depend upon mere paper provisions, the instruments of convenience to *France*, and of delusion to others, it being apparent that when her aspiring views are accompanied with power she can, for the
fake

ake of dominion, rescind all contracts, and openly proceed in direct repugnance to the principles of faith and justice, the chief ornaments blessings and bonds of society, without which force would be ever moving in all directions, and the world become a chaos of iniquity and violence.

And with respect to the fishery—The great *Elizabeth* having left the sovereignty over all the country of *Baccalaos* to descend to king *James*, and the same having been diminished through the weakness or worse qualities of those who ought to have preserved it, together with the arts of *France*, and she being now reduced to so low an ebb of power, the ancient right, honour, interest, and safety of their country called upon these ministers to take the utmost care to reunite the whole, in order to its perpetual future conservation: but influenced less by these noble motives than by personal regards, and unequal to their places, into which they were introduced by means despicable in themselves, though too often fatal in their effects, and unable to prosecute the great designs of their predecessors, they concluded a peace, whereby they ceded and granted to *France* those large portions of this inestimable fishery which are contained in the 13th article aforementioned.

This treaty being concluded *France* proceeded to secure and improve those parts of the fishery which were yielded to her, sparing therein no counsel cost or pains; for the security whereof at land she strongly fortified cape *Breton*, having in the course of the negotiation obtained the desired exclusive possession of it, planting at the same time a colony of fishermen there, and for protection of the vessels fishing on the banks she employed ships of war, putting the whole under the best regulations for the encrease of her commerce and naval power; and not content with what she had obtained by treaty she had recourse to her former practice of encroachment, and thereupon gave orders to the commanders of her ships of war not only to protect those parts of the fishery

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which

which were assigned to her, but to direct the fishermen to proceed and fish upon banks left to the *English*, in order to support her pretensions, and make to themselves a privilege of fishing where they pleased by force of custom; and these encroachments were in a short time so enlarged that many of her fishermen made it their practice to fish upon the banks of *Nova Scotia* far within the exclusive South West line determined by the treaty; and proceeding still farther she carried on the fishery on shore in several places belonging to the *English*, both in *Nova Scotia*, and in that part of *Newfoundland* which lies to the southward of point *Riche*, whence she was excluded by the treaty, to wit at *Gaspay*, *Les Trois Isles*, and other places. To prevent the encroachments on the fishing banks ships of war were appointed, which driving off such *French* fishermen as they met with, after their departure they frequently returned. Under this management, with the advantage of having the most proper salt ready in their own ports, the *French* fishery flourished extremely, so that to our great loss in this and other dependent trades they outrivalled us in many *European* markets.

Before the year 1744, when war commenced, the *French* fishery was so far increased, that, according to several computations made by judicious persons acquainted with the *American* fishery, and noted for moderation and care in their calculates, its products amounted to a million sterling, and it employed upwards of 25,000 fishermen and seamen; but a particular computation having been made of it in the year 1745, at the desire of the governor of *Massachusetts* province, by Mr. *Thomas Kilby* since deceased, who from his personal knowledge of it, and his capacity in other respects, was singularly well qualified for this service, and having obtained a copy of a duplicate of the original computation, which was in that year transmitted to the government, from the gentleman who inspected it while making, and concluded it, and who
after

after many years loss has lately recovered this duplicate, I shall give it the reader for his greater satisfaction herein.

“ A computation of the *French* fishery, as it was managed
 “ before the present war, viz. from the gut of *Canso* down a
 “ long shoar to *Louisbourg*, and from thence to the N. E.
 “ part of cape *Breton*, there was yearly employed at least
 “ 500 shallops, which required at sea and shoar 5 men
 “ each, is - - - - - 2500 men
 “ and 60 brigantines, scooners, sloops, &c. }
 “ each 15 men, is - - - - - 900
 in the whole 3400 men

“ These 500 shallops must be allowed to catch at least one
 “ with the other, 300 quintals of fish in the summer season,
 “ which makes - - - - - 150000 quint.
 “ and the 60 brigs, scooners, 600 quintals }
 “ each, makes - - - - - 36000
 “ which is in the whole at cape *Bre-* }
 “ *ton* - - - - - quint. fish } 186000

“ To carry the above quantity of fish to *Europe* there must
 “ be employed in the whole 93 ships of the burthen of 2000
 “ quintals each, one with the other, and those ships have at
 “ least 20 men each to navigate them, }
 “ which is - - - - - 1860 sea men”
 “ Added to the fishermen employed to }
 “ catch the fish as above - - - } 3400
 “ makes the number of men in the cape }
 “ *Breton* fishery - - - - - } 5260 men”

“ At *Gaspay*, at the entrance of *Canada* or *St. Laurence*
 “ river, are employed six ships, which come out manned to
 “ catch their cargo with shallops left there during the winter,
 “ and have at least 60 men each ; these are 360 men, which
 “ added to those on the N. W. side of *Newfoundland* in the
 “ under mentioned harbours, ports, gulph, &c. amount to as
 H 2 “ follows,

The ANCIENT RIGHT of the ENGLISH NATION

“ follows, and may be allowed with the other 3000 quintals.
“ of fish each, — viz.”

“ At <i>Gaspay</i> - - -	6 ships	360 men	18000 quint. fish
“ <i>Quadre</i> - - -	6 d°	360 d°	18000 d°
“ <i>Port en Basques</i> - -	6 d°	360 d°	18000 d°
“ <i>Les trois isles</i> - -	3 d°	180 d°	9000 d°
“ <i>Cape Breton</i> - - -	93 d°	5260 d°	186000 d°
“ And add - - -	300 d°	18000 d°	900000 d°
“ Makes - - -	<u>414 ships</u>	<u>24520 men, and</u>	<u>1149000 quint. fish”</u>

“ The last mentioned 300 fail of ships have always been
“ allowed and boasted of by the *St. Malos* men to be fitted
“ out from thence and *Granville* on the fishing voyage which
“ they carry on at *Fichante*, *Petit Nord*, &c. to the north-
“ ward of *Newfoundland*, the straits of *Belleisle*, and through
“ there into the gulph of *St. Laurence* round on the main to
“ cape *Gaspay* abovementioned; and although it is true that
“ of these 300 ships it may be objected some of them are of
“ those at *Gaspay*, others at *Port en Basque* &c. in the above
“ calculation, yet in lieu thereof, knowing it to be so, no re-
“ gard is had to the ships there employed, fitted out at *St.*
“ *John de Luz*, *Bayonne*, *Nantes*, *Havre de Grace* &c.” which
go into those seas, and are more than the 21 ships above-
mentioned.

“ The mud fishery so called by the *English* (that of *morue*
“ *vert* by the *French*) is carried on by a number of ships
“ fitted out from *France* for their voyages on the banks, where
“ they are to catch their lading and return home, without
“ going into any port, unless in case of extremity, and then
“ their resort is to cape *Breton*; and in this fishery are em-
“ ployed from the river

“ <i>Sendre</i> - - -	40 fail of ships
“ from <i>Olune</i> and <i>Poitou</i> - -	60 d°
“ <i>Havre de Grace</i> - - -	10 d°
“ <i>St. Malo</i> - - -	20
“ and from other ports - -	20

“ is in all - - - 150 fail of ships. These are
manned

"manned with seamen and fishermen from 16 to 24 each,
 "and catch one with another from 22000 to 30000 fish by
 "tale, which on a medium is each 20 men, and each 26
 "thousand of fishes, and are in the whole, of men 3000;
 "and of fish to be counted out by the hundred 3900000;
 "but some say this fishery consists of 200 or more sail of
 "ships, so that this may be lookt on rather an under valuation
 "than over."

"In regard to the value of this branch of trade it may not
 "be amiss to add the large quantity of train oil hereby pro-
 "duced, which *France* cannot do without, either at home for
 "their woollen manufactory, lights, &c. or in their sugar
 "islands, which are supplied from this fishery: and now let
 "this mud fishery at this estimation (which is short)
 "of - - - 150 ships, and 3000 men, be added to that of
 "the other of 414 ships, and 24500 men, and then these will
 "appear to be 564 ships in all, and 27500 men yearly employed
 "from *France* on the banks of *Newfoundland*, and the ad-
 "jacent shoars, and no less quantity than 1149000 quintals
 "of baccalieu, and of mud fish 3900000 in number, caught
 "there, and transported in their own bottoms by the *French*
 "to North and South *France* as much as they can consume,
 "and the surplufage to *Spain*, *Italy*, &c. And as to the
 "quantity of oil it may be relied on that to every hundred
 "quintals of fish they actually do (or with care may) make
 "one hogshead of oil, clear drawn off from the blubber, and
 "this will produce 11490 hogsheads of oil (*i. e.* hogsheads
 "of 60 gallons each) and allowing 4000 fish in number,
 "equal to one hundred quintals when cured, and then the
 "3900000 mud fish by the same rule will produce 975
 "hogsheads of oil, and these added to the other 11490
 "hogsheads make in the whole 12465 hogsheads of oil,
 "which is equal to 3116 tonns and $\frac{1}{4}$ "

l. s.

“ Which 1149000 quintals of fish at 10 s. sterl. }		
“ per quintal only is worth - - }		574500
“ and the 3116½ tons oil at 18 l. sterl. per ton		56092 10
“ is the produce of one summers fishing - sterl.		630592 10
“ exclusive of the value of the 3900000 mud fish, which		
“ produces in <i>France</i> , its proportion being sold there accord-		
“ ing to the best <i>French</i> accounts (the <i>English</i> in these parts		
“ not being acquainted with the value of this sort of fish) by		
“ tale at a livre a piece; but supposing them sold at nine		
“ pence sterling a piece, their value then will be		146250
“ To which add the freight of 1114000 quint.		
“ of dry fish at 3 s. sterl. per quintal, this		
“ fish in the above computation being		172350
“ estimated according to its value at the		
“ places where cured, and first shipped,		
“ With the value of the dry fish }		
“ as above - - - }		574500
		630592 10
“ and the value of the oil - - -		56092 10
“ Making in the whole - - - -		949192 10

At the time when by this computation the *French* part of the *American* fishery employed 27500 men, and its annual products were near a million sterling, according to a general account of the *English* part of it carried on at *Newfoundland*, given me in the year 1745 by captain *Masters*, late of *Poole*, deceased, who was intelligent, and many years largely concerned in it, it employed 10000 men, and its annual products were 400000 l. though according to a particular computation published in 1745, and said to have been presented to the ministry in the beginning of that year by a gentleman of large trade in the city of *London*, the number of men employed was considerably less. These computations included all persons employed, except those who belonged to the colonies, whose

whose number has been subject to greater variations; but at this time they probably amounted to about 2500.

Upon opening the war in 1744 the designs of the *French* were to conquer *Nova Scotia*, and destroy the *English* fishery, in pursuance whereof they made the four following expeditions in that year. 1. Mr. *Duquesnel*, governor of cape *Breton*, within three days after his receiving the declaration of war, fitted out an armament from *Louisbourg*, commanded by Mr. *Duvivier*, against the island of *Canso*, a part of *Nova Scotia*, where the *English* had many years carried on a considerable fishery. This place wanting the usual protection of the station ship of war, not sent that year, Mr. *Duvivier* without opposition entered the harbour by night, surprized and burnt the fort, with the other buildings, destroyed the fishery, and carried the garrison, consisting of about eighty private men fit for duty, with their officers, prisoners to *Louisbourg*. 2. Upon Mr. *Duviviers* return from this expedition Mr. *Duquesnel* sent him immediately upon another against *Placentia*, which was frustrated by contrary winds. 3. In the mean time an attempt was made upon *Annapolis Royal*, the sole remaining strength whereby *Nova Scotia* was held, by a body of *Indians* prepared for this service upon the approach of the war by the governor of *Canada*, who being now collected to the amount of about 700 men, and led on by a priest named *Le Loutre*, laid close siege to the fort, the works whereof, composed of earth and timber, were so ruinous in several parts that the cattle could walk over them, a new fort of stone being then preparing. The garrison consisted of about eighty men fit for service. The works being assailable almost on every side the enemy made their attacks without intermission, but chiefly in the night, whereby the garrison was kept in continual alarm in every quarter; and this hard service continuing eleven days both officers and men were so much fatigued that they could not have held out many days longer. When thus distressed succours arrived from *Boston*, which were raised and dispatched

on receiving casual advice of the desolation of *Canfo*, upon the appearance whereof in the basin, and the snow which convoyed them discharging her cannon, the *Indians* made a precipitate retreat, and could not be brought back to give the garrison any farther molestation till Mr. *Duviviers* attempt two months after, before which time the works were repaired, and the garrison strengthened with farther succours from *Boston*. 4. Upon Mr. *Duviviers* return from the *Placentia* expedition Mr. *Duquesnel* dispatched him with some troops to reduce *Annapolis*, who having collected the *Indians* waiting for him at *Minas* invested the fort, expecting to be soon followed by three *French* ships of war of 70, 56, and 30 guns, with 280 land forces, a large train of artillery, and stores, intended by Mr. *Duquesnel* to be sent from the squadron in *Louisbourg* harbour appointed to convoy the *West India* fleet to *France*. This reinforcement never came; however Mr. *Duvivier* continued the siege till he brought the commander to treat with him upon terms of surrender; but on his making an insidious proposal the treaty broke off, and fresh succours opportunely arriving from *Boston*, Mr. *Duvivier* despairing of the arrival of his expected reinforcement decamped, and retired to *Minas*, Mr. *Duquesnel* being disappointed of the assistance expected from the *French* squadron armed and manned a banker of 400 tons, with a brigantine and sloop, and sent them to reinforce Mr. *Duvivier*, expecting they would find him before *Annapolis*. These vessels upon their arrival at the narrows below *Annapolis* came to an anchor, intending to wait there till they should know Mr. *Duviviers* situation. They were seen standing up the bay of *Funda* by a fisherman, who on his arrival at *Boston* informed the governor of it; whereupon the next day he sent an advice-boat to the commander at *Annapolis*, with intelligence, and an assurance that within four days he would send three armed vessels well appointed for his defence. This advice-boat incautiously fell in among the *French* vessels in the night, and the master in his

his surprize suffered the governors dispatches to fall into the enemies hands. The *French* commodore had by this time discovered that Mr. *Duvivier* was retreated, and now finding that a naval force was coming after him he cut his cable, and directly quitted the bay, which was soon after entered by the vessels dispatched from *Boston*. Upon these disappointments the *Indians* dispersed, and Mr. *Duvivier* returned with his troops to *Louisbourg*. In case he had in his return from the *Canso* expedition been sent to reduce *Annapolis*, joined by *Le Loutres Indians*, he would without question have surprized the garrison, and taken the fort before they had notice of the declaration of war—The designs against *Placentia* and *Annapolis* thus proving fruitless Mr. *Duquesnel*, in order to secure the conquest of *Nova Scotia* the next year, and make effectual war upon the *English* fishery, sent Mr. *Duvivier* to concert measures with the proper persons in *France*.

In *January* 1745 the *Massachusetts* governor proposed to A. D. 1745. the assembly an expedition against *Cape Breton*, which they declined, from a sense of their supposed inability to prosecute so great a work; but being afterwards convinced that a more favourable opportunity of reducing *Louisbourg* then offered than would probably happen at any future time, and moved by the importance of the prize, on the 25th, they resolved to make it; whereupon 3250 volunteers, under proper officers, were enlisted, armed, disciplined and collected; and all the naval force they could raise, or hire in the neighbouring colony of *Rhode-island*, warlike stores, provisions and transport vessels were provided. The troops embarked and sailed in *March*; and as a sufficient number of battering cannon could not be obtained, and those who planned their operations held it necessary to make their utmost efforts for taking the grand battery, confident of their success herein, they carried with them a proper quantity of 42 pound ball, suited to the cannon of that battery, which in the event answered according to their wishes. Their naval force consisted of four ships of twenty
I guns,

guns, a snow of sixteen, another of fourteen, a brigantine of twelve, and two small sloops, being joined by the *Connecticut* and *Rhode-island* sloops of twelve guns each, and a small armed vessel from *New Hampshire*; and, to support the expedition, *Connecticut* supplied 500 men, and *New Hampshire* 300. Part of the naval force was first dispatched to cruize off *Louisbourg*, to cut off intelligence and early supplies, and the troops sailed under convoy of the rest, without an assurance of being supported by any of the kings ships of war. When the expedition was resolved on, the governor, who from the beginning had depended on the assistance of some of the kings ships in *America*, by an express-boat acquainted Mr. *Warren*, who commanded a squadron at *Antigua*, with it, desiring the assistance of such ships as could be spared. At the same time he informed Sir *Chaloner Ogle* of it, who was then upon the point of returning home with a squadron from *Jamaica*, and proposed to him to make *Louisbourg* in his way. He likewise sent advices thereof to his majestys ministers. On the day before the troops sailed the express-boat returned with an answer from Mr. *Warren*, dated the 24th of *February*, declining to give the desired assistance, upon the unanimous opinion of his captains present at a consultation held the day before. Of this disappointment the first and second persons in command only were advised. In answer to the dispatches sent to Sir *Chaloner Ogle* at *Jamaica* admiral *Dawers* who relieved him acquainted the governor that he had pressed him much to comply with the proposal of his letter, but could not prevail on him to do it. On the 4th of *April* the troops arrived at *Canso*, the place of general rendezvous; and *Chapeau-rouge* Bay near *Louisbourg*, the place appointed for their landing, being full of ice they were detained at *Canso* till the latter end of the month. On the 18th the *Renommée*, a *French* ship of war of 36 guns, with 300 seamen, and 50 mariners, charged with public dispatches, fell in with the *Massachusetts* armed vessels cruizing off *Louisbourg* harbour, where she maintained a running fight, but out sailing them

them got clear: afterwards she fell in with the *Connecticut* troops, under convoy of their sloop, and that of *Rhode-island*, the latter of which she attacked and damaged considerably; but finally the sloop got off, the other sloop with the transports escaping during the engagement; and after making two more attempts in vain to push into the harbour she returned to *France* with her packets, and advice of the expedition. — On the 23^d of *April*, in pursuance of orders from the lords of admiralty, Mr. *Warren* arrived off *Canso* with three ships of war, another having under his orders arrived there the day before. After a few hours stay, to confer with the general by letter, he proceeded to cruize off *Louisbourg*; and during the siege he was joined by five ships of war dispatched from *England*, whereby he was enabled to cover it, as he did effectually. On the 19th of *May*, in sight of the camp, he took the *Vigilant* of 64 guns, proceeding to *Louisbourg* with ordnance stores — On the 30th and 31st of *April* the troops landed in *Chapeau-rouge* bay; and having repulsed with loss the party sent out to oppose their landing, transporting their cannon by hand with inexpressible labour through deep morasses, and ways deemed by the *French* impassable, drawing part of them up a steep bank and rock, with difficulties almost insuperable, raising battery after battery, and enduring cheerfully the greatest hardships, though such numbers were seized with fluxes that fifteen hundred were at one time incapable of duty, they prosecuted the siege with such assiduity, courage and conduct, that, assisted by the grand battery, which the enemy in their fright at first quitted, and afterwards would have regained, by their operations the island battery, esteemed by the *French* the *Palladium* of *Louisbourg*, was so greatly annoyed that they despaired of keeping it; *Maurepas* gate at the eastern part of the city was shattered; the enemys north east battery was damaged, and so much exposed to the fire of the besiegers that they could not stand to their guns; the circular battery was ruined, and all its guns save three dismounted,

so that the harbour was disarmed of all its principal batteries; the west gate of the city was demolished, and a breach made in the adjoining wall; the west flank of the kings bastion belonging to the citadel, and the battery there, whose guns pointed to the land side, and greatly annoyed the works of the besiegers, were nearly ruined, and the citadel itself very much damaged, and most of the guns mounted during the siege were silenced; all the houses and buildings in the city were so damaged that one only was left unhurt; the enemy were extremely harrassed by their long confinement within their casemates and other covered holds, into which they were driven by cross fires from the cannon and mortars of the besiegers, which ranged through the houses and streets in every part of the city; and their stock of ammunition being nearly exhausted the governor, in the afternoon of the 15th of *June*, under a flag of truce desired time to draw up articles of capitulation, which being granted till the next morning articles were then sent, which were rejected by the general and commodore, who proposed others that were accepted, for the performance whereof hostages being that day exchanged, on the next, the 17th of *June*, the city was surrendered, and the garrison, consisting of about 650 regular troops, with the inhabitants, including about 1300 effective men, who during the siege were under arms, became prisoners by capitulation. During these operations *St. Peters*, and eight other fishing settlements upon the island were broken up, and upon the surrender of *Louisbourg* the inhabitants of *St. Johns* island submitted likewise.

Soon after making this conquest new difficulties arose. First, a great part of the officers as well as the troops were much enclined to destroy the town, raze the fortifications, and return home, where they were much wanted. This proceeding being prevented by the general and commodore, and the troops having entered the service with an expectation of returning; upon the conclusion of the siege, and the garrison service

service being disagreeable, and their diet unhealthful, great discontents arose among them. 2. The general and commodore, with others, had persuaded themselves that the captors had good right to the soil of the island, and a day was thought of for making distribution of part of it. 3. A court of vice admiralty was without authority erected there, with a view chiefly to condemn as prize two *French East India* ships and a *South-sea* ship, and their cargoes, of the value of 600000 *l.* or more, and notice sent by the commodore to the several colonies upon the continent that sale would be made of them under such condemnation at a time prefixed. 4. Upon reducing *Louisbourg* the garrison presuming that many *French* ships were standing for that place, as a port of safety, kept the *French* flag flying for a decoy to them. This had the desired effect in drawing the ships aforementioned to it, which were prevented from entering the harbour when making it by some of Mr. *Warrens* squadron lying there, which went out merely to make these captures. The troops could not be persuaded the squadron had any such exclusive right, but complaining said it was contrary to all reason and equity that they should undergo such toil and hazard to provide a harbour for the squadron, into which they had entered without any expence of their powder, having never fired a single shot against the place during the siege [*f*], and that they should thus by issuing out, while the fort and garrison remained fixed, solely reap this fruit of the conquest. The more intelligent part were of opinion that these ships not being prize within the intent of the act, which gave ships taken in the course of the war to the captors in reward of their merit, they of right belonged to the public treasure, to be disposed of as justice to the state, and the parties concerned in their acquisition, required. The commodore had upon the surrender taken and

[*f*] The troops, I am satisfied, did not intend by these expressions to reflect upon the courage of the sea-com-

manders, for which they had no cause, but merely to declare in strong terms their own services.

kept possession of one or more of the batteries with his marines, and once taken the keys of the city gates into his custody, and interfered in the naval office. These proceedings, though of short continuance, being held by the troops dishonourable to them, had sharpened their minds, so that now disgust animosities and murmurs accompanied their complaints, which were aggravated other ways, but chiefly by the sickness that daily encreased upon their unexpected detention, and which before their relief carried off 1500, or more of them. Upon the discontent of the troops Mr. *Pepperrell* the general informed Mr. *Shirley* the *Massachusetts* governor that his presence was necessary to allay it; and to pacify for the present the great numbers who daily pressed him for their discharges he referred them to him, telling them he only had power to discharge them, and would shortly come to *Louisbourg*, desiring them to cease their importunities only till his arrival, the commodore sending at the same time his majestys ship *Hector* to bring him thither; and the *Massachusetts* assembly upon considering the general state of the new conquest made under his commission were extremely urgent with him to proceed directly to *Louisbourg*, and take upon him the government of it, making at the same time several provisions for the satisfaction and encouragement of the troops, whereupon he proceeded accordingly. On considering how much the city was weakened by the siege, and that the minds of its defenders were now so far employed upon other objects than its security, and how uncertain it was when and what force would come from *France* in consequence of Mr. *Duviviers* going thither, of the *Renomées* return with intelligence of the expedition against *Louisbourg*, and of the great regard which the *French* had for the advancement of their interest in this quarter, judicious persons were apprehensive of the consequences of the present state of this important place.

The governor on his arrival reconciled the troops to their continuance in their duty, though not without difficulty, put
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an end to the proposed distribution of the conquered lands, and dissolved the pretended court of admiralty, thereby preventing contests innumerable, and difficulties irremediable which would have ensued upon the unlawful condemnation, of such valuable cargoes, and the intended subsequent sales thereof, and the seizures for their unlawful importation by the purchasers; and all points were settled to general satisfaction, and a constant harmony subsisted between the governor, general and commodore. Some time after fresh discontents among the troops, proceeding chiefly from erroneous notions, arose to such a height that the greatest part of them entered into a combination to demand their dismissal early the next morning upon the parade, information whereof being given to the governor late in the afternoon some of the ring-leaders were thereupon secured, the men off duty ordered into their barracks, a council of war called, and orders given for an extraordinary number of officers to walk the rounds till morning, and that the several regiments should be very early drawn up at their respective alarm posts for the governor to speak to them, when by promising advance pay to such of the *Massachusetts* troops, whose pay was unequal to those of *Connecticut*, as should be detained till the spring, and by assuring them that in order to provide for their cloathing during the winter he had two months before desired the governors of *New York* and *Pensylvania* to procure for him what woollens they could upon his own bills, in addition to what the assembly should be able to buy in *Boston*; that he had lately received advice that a very large quantity of woollens were shipped for him at *Philadelphia*, and that he expected a supply of cloaths of all kinds, and bedding, for them would speedily arrive; that he would take care upon his return to *Boston* that whatever was due to any of them should be forthwith paid to their orders, and by informing them all that he expected a considerable number of recruits were then upon their passage, and that by the middle of *October* he would discharge as many of those who.

who served at the siege as would reduce the garrison to 2000, which number must of necessity be retained that winter to secure the conquest they had made; by these and other means he explained away or removed the causes of their mutinous disposition; so that being entirely satisfied no future discontent appeared among them.

In the beginning of *July* the *Brest* squadron, with Mr. *Duvivier* on board, consisting of seven ships of war, including the *Renommée*, appointed to reduce *Annapolis*, destroy the *English*, and protect the *French* fishery, failed; but on gaining certain intelligence in their passage that the *English* were in possession of *Louisbourg*, and had a strong squadron there, they returned. It is needless to say that the *Cape Breton* expedition was the reason of sending the *English* squadron, or to set forth the dangers that would have attended *Nova Scotia* and the *English* fishery from this *French* squadron, in case that expedition had not been made, and so large a squadron sent out on that occasion.

Mr. *Shirley* after enquiring into the state of *Quebec* and the forts *Frederick*, *Frontenac* and *Niagara*, with the disposition of the six nations, was of opinion that the *English* having taken *cape Breton*, following their blow, might reduce *Canada*; wherefore during his stay at *Louisbourg* he concerted measures with Mr. *Pepperrell* and Mr. *Warren* for an expedition against it, and before his departure on the 30th of *November* he and Mr. *Warren* proposed the attempt to his majestys ministers; whereupon his majesty in the spring ordered six battalions of his troops, under the command of general *St. Clair*, to be joined by such troops as could be raised in season by the colonies, with a proper naval force, to be employed in this service. *France* at the same time intending to secure the conquest of *Nova Scotia* resolved to send out for that purpose a strong squadron from *Brest*, with a considerable number of troops, to be joined by Mr. *Conflans* squadron from *cape François* in *Chebuëto*, since called *Halifax*, harbour, and assisted with a body

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body of *Canadians* and *Indians*, these two squadrons composing a greater force than had at any time been employed against the northern part of *America*, and Mr. *Conflans* squadron being probably ordered to come from cape *François* not only for the sake of its additional strength, but also for better preventing the *English* from knowing the force of the armament prepared against them.

The two nations having compleated their preparations for these expeditions the *English* varying their councils laid aside theirs; but *France* prosecuting hers, on the 29th of *April* duke *D'Anville* the commander sailed from *Brest*, without having, as it should seem, collected his whole force; and after putting back he sailed thence again on the 7th of *May* for port *Louis*, and having been detained at different places on the coast by contrary winds, or other causes, till the 22^d of *June*, he then sailed from *Rochelle* with the *Northumberland* and *Tigre* of 66 guns, the *Trident*, *Ardent*, *Mars* and *Alcide* of 64, the *Caribou* and *Leopard* of 60, and the *Diamant* and *Boree* of 50, with several smaller ships of force, two fire ships, two tenders with artillery, and a great number of other vessels, with 3150 troops, and large quantities of stores and provisions. The destination of this squadron was kept so secret that an officer of one of the ships of war, in his letter dated at *Chebueto* October 10, taken in an advice boat sent thence to *France*, expressed himself thus. "The 19th [of *July*] the "*Renommée* went a-head, we imagine, to get some intelligence "of the place we were destined for;" and according to his relation of their voyage, meeting with calms, little or contrary winds, after having left *France* 64 days they were at 300 leagues distance from *Nova Scotia*, the place to which they then imagined they were bound. On the 10th of *September* they discovered the coast of *Acadia*, hoping then to get into *Chebueto* their intended port with safety; but on the 13th a storm came on which distressed and dispersed the fleet. On the 15th the weather clearing up they joined the *Tigre* and 25

merchant ships. The *Caribou*, *Alcide* and *Mars* lost each a top-mast, and the last being very leaky, he says, steered for the *American* islands, the *Alcide* being ordered to take care of her. On the 27th Mr. *de Tourmelle*, the second in command, with the greater part of the fleet, got into *Chebueto*, where, according to other accounts, duke *D'Anville* had arrived with a few ships two or three days before, and, overcome by his grief at missing the rest of his fleet, and other disasters, he destroyed himself. The *French* officer aforementioned says that on their arrival they were told he died of an apoplexy that day at two in the morning. On his death the command devolving on Mr. *de Tourmell*, to proceed in the words of the letter writer, "he called a council of war; but by a particular, "extraordinary and tragical accident Mr. *de Tourmell* is no "longer our general; the council of war, which held seven. "or eight hours, exasperated him so violently, that, on the "1st of *October*, he was seized with a fever, and soon after "delirious, which so extremely agitated him, that, imagining "himself among the *English*, he laid his hand on his sword, "and ran it through his body: he is yet alive, but so considerably weakened that he voluntarily conferred the command on Mr. *de la Jonquiere*, who in spite of our misfortunes gives us great expectations, for without derogating from duke *D'Anvilles* character, Mr. *de la Jonquiere* has as much activity, and more experience."

"Thus, notwithstanding our weakness, a very long passage, "and a great deal of sickness, which has much lessened our "numbers, as well as the separation of the *Ardent*, *Caribou*, "Mars, *Alcide*, and the *Argonaute* fire ship: What is become of the three first we know not, and what is still "worse, they have all troops on board; I say, notwithstanding all this, we flatter ourselves with success in the conquest "of *Nova Scotia*." Some short time before duke *D'Anvilles* arrival Mr. *Conflans* arrived off *Chebueto*, with four capital ships, where having continued cruizing some days, hearing nothing

nothing of the dukes squadron, he concluded the destination of it was changed, and thereupon quitted the coast.

It is to be noted that while the *French* fleet lay at *Chebuëto* an *English* admiral lay with a squadron in *Louisbourg* harbour, and the *Massachusetts* governor, in order to give him the best intelligence that could be got of the strength of the *French* squadron, sent a small schooner to reconnoitre it, and carry him a distinct account of it, which was done, and from the condition wherein it was found the best judge thought the *English* squadron was sufficient to destroy it; yet the governor of *Louisbourg*, an experienced sea-officer, in vain pressed the admiral to make the attempt.

In August Mr. de Ramsay with 1700 *Canadians* and *Indians* came and encamped within a mile and halfs distance from *Annapolis*, with an intent to join the forces expected from *France*. The *Massachusetts* governor being advised of this determined to send 1500 of the troops raised by that province for the *Canada* expedition, for the prosecution whereof admiral *Lescock* was daily expected with a squadron from *England*, to preserve *Nova Scotia*, and ordered 600 to be forthwith embarked, and admiral *Warren* being at *Boston* ordered the *Chester* of 50 guns to proceed directly to *Annapolis*, to augment the small naval force lying there. The *Chester* arrived in a few days, and 400 of the troops from *Boston* soon after. Upon the arrival of this reinforcement Mr. de Ramsay apprehending the troops to be double their real number, and that another large number with a greater sea force was soon to follow, and despairing of the arrival of the *French* armament that year, suddenly decamped, sent 1200 of his troops back to *Canada*, and retired with his remaining force to *Minas*, whence he communicated his false alarm to Mr. de la Jonquiere at *Chebuëto*, which according to good intelligence actually prevented him from sending some frigates up the bay of *Funda* with troops, artillery, and ordnance stores.

Mr. *de la Jonquiere* continued at *Chebueto* to recover his men and repair his ships, employing the crews and materials of some that he burnt to strengthen the rest, till the 3^d of *November*: when he sailed, steering his course for the bay of *Funda*, whether with intent to go up it with his whole force, or to send up only part of it for the reduction of *Annapolis*, is uncertain. Upon his making cape *Sable* an excessive hard gale drove him off the coast, and dispersed his ships, of which two returning in a few days, one of them, of 50 guns, went up the bay as high as the narrows, expecting, as was supposed, to find others of them there; being discovered from the fort, and thereupon chased by the *Chester*, she stood out of the bay, and no more was heard of any of the fleet.

But this great providential deliverance did not secure *Nova Scotia* from danger till fresh forces could come from *France* against it the next summer; for Mr. *de Ramsay* continued there with about 500 *Canadians* and *Indians*, exciting the inhabitants to take up arms against their sovereign and join him, in order to reduce *Annapolis* and change their subjection, for which purpose he made use of false pretences, persuasions, and menaces. The elder part of these inhabitants were *British* subjects by their election, subsequent to the treaty of *Utrecht*, and the other subjects by birth, and they were all *French* by birth or descent, without the establishment and execution of the proper *English* government among them, or their minds reconciled to it, and they were *French* in their customs and manners as well as language and religion, and considerably under the influence of their priests and the governor of *Canada*, whence he conceived great hopes of success, more especially as the inhabitants of *Chiegneto* were openly devoted to *France*, and those of *Minas* and *Annapolis* river were wavering; in order to it having summoned the deputies of the three districts to attend him he told them he had intelligence that the *Massachusetts* governor was sending a large body of troops to force them from their estates, for the defence whereof he

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exhorted

exhorted them to join him; they promised to report his proposal to their principals, and give him their answer within a limited time. To counteract Mr. *de Ramsay* governor *Shirley* resolved, though the winter was far advanced, to attempt driving him out of *Minas* as soon as a fresh recruit of troops could be sent, and in the mean time to prevent his progress in gaining over the inhabitants he transmitted to Mr. *Mascarene*, lieutenant governor of *Nova Scotia*, a number of printed declarations in *French* under his hand, to be dispersed throughout the districts of *Minas* and *Annapolis* river, wherein he assured them that such as should remain firm in their allegiance should be protected in the possession of their lands and just rights, according to the treaty of *Utrecht*, at the same time letting them know that he should soon send to *Minas* a force sufficient for the removal of Mr. *de Ramsay*, and their protection. These declarations arriving in season Mr. *Mascarene* found means to disperse them among the deputies and inhabitants before the day appointed for giving their answer to Mr. *de Ramsay*; whereupon they unanimously declared to him they were resolved to trust to the assurances given them by governor *Shirley* of their being protected in the enjoyment of their estates by the king of *Great Britain*, and absolutely refused to take up arms as he desired. This they immediately signified to Mr. *Mascarene*, and by their addressees to Mr. *Shirley* gave thanks for the protection promised them, and declared their resolutions to be loyal subjects to the king.

In the latter end of *November*, and beginning of *December*, the troops destined for *Minas* embarked at *Boston* for *Annapolis*; one of the transports with the greatest part of the troops on board was lost in their passage, the rest arrived safe, and being strengthened with a party from the garrison embarked for *Minas*, and entered *Grand Pré*, the chief town in that district, in the latter end of *December*. Mr. *de Ramsay* having received intelligence of this force coming against him had retired to *Chiegnecto*: the extreme severity of the season prevented

prevented the *New England* troops from following him thither according to their orders. On the last day of *January*, being informed that they were distributed into distant quarters for their accommodation, and being promised assistance by some of the inhabitants, he dispatched a large party of *Canadians* and *Indians*, under Mr. *La Corne*, who in a violent snow storm making a march through the woods, deemed impracticable by the *English*, entered the town at midnight, and surrounded the chief part of them in their quarters, the greatest part of whom were killed, wounded or taken prisoners; the rest of these, and the parties which were not surrounded, forced their way through the enemy to the guard-house, a defensible stone building, whence two companies marched the next morning to attack the enemies head quarters; but after twice discharging their musquetry they were obliged to retreat. The day following Mr. *La Corne* proposed a parley, which being consented to they agreed that each party should bury their dead. He then proposed these terms of capitulation, that upon surrendering the fort they should have leave to march out with drums beating, colours flying, and other usual honours of war; a sufficient quantity of ammunition and provisions allowed to serve them in their march back to *Annapolis*, and necessaries for carrying off their sick and wounded; and that they should quit *Minas*, and not bear arms in any part of *Nova Scotia* during the term of one year, to which they submitted. The killed, wounded and prisoners taken in this action by the *French* amounted to about 160, and the *Canadians* and *Indians* killed and wounded by the *English* were computed to be between 50 and 60. Mr. *La Corne* quitted *Minas* in a few days, leaving a small party there under command of an inferior officer.

Mr. *de Ramsay* on gaining this advantage, in the name of the governor of *Canada*, issued declarations to the *French* inhabitants, requiring them to take up arms whenever they should be called upon by him against the *English*, on pain of death,

death, having their houses burnt, and their estates confiscated; and with these he published the bishop of *Quebecs* declaration, pronouncing them absolved from their former oaths of fidelity to the king of *Great Britain*. On the other hand governor *Shirley*, to cut off all pretensions to the conquest of *Minas* that might be founded on the capitulation at *Grand Pré*, proposed to Mr. *Mascarene* to send as many of the troops unrestrained by the late capitulation as could be spared from the garrison, to retake the district of *Minas*, and at the same time to bring as many of the *French* deputies as they could to *Annapolis* to renew their oaths of fidelity; Mr. *Mascarene* accordingly sent out a party of rangers, with orders to land at *Grand Pré*, where the commanding officer on his landing was informed that the *Canadians* apprehending another descent might be made by the *English*, and that they were unsafe at *Minas*, had abandoned it, and retreated to *Chiegnecto*, which on entering the body of the town he found true, whereupon he took possession of the district, erecting the *English* standard upon the guard-house; and after taking such of the deputies and inhabitants as he thought proper he returned with them to *Annapolis*. Soon after this Mr. *de Ramsay* evacuated the province, which the *French* invaded no more during the war.

On the 3^d of *May* 1747 the admirals *Anson* and *Warren*, A. D. 1747, being off cape *Finisterre* with a large squadron, fell in with the *French* fleet under the command of Mr. *de la Jonquiere*, consisting of thirty eight ships, whereof six were ships of war, and three were their *East India* company ships fitted out as such, the rest appearing to be under their convoy; all the ships of force were taken, but the others escaped. According to advices published, and said to be sent by Mr. *Anson*,
 “ The *French* fleet was to have separated in a day or two,
 “ the *Invincible* and *Jason* were bound to the *East Indies*,
 “ with the trade and store ships; the other ships were for
 “ *Canada* with soldiers and stores, to enable the inhabitants to
 “ retake.

“ retake cape *Breton*.” According to other intelligence part of this force was intended to proceed directly up the bay of *Funda*, and reduce *Annapolis* if possible before the *English* could be advised of the attempt, and send the necessary succours.

A. D. 1743.
Oct. 18. N. S.

A treaty of peace was concluded at *Aix la Chapelle* between *Great Britain*, *France* and the *States General*, to which the other powers principals and auxiliaries in the several wars acceded, by the third article whereof the treaty of *Utrecht* was renewed and confirmed; by the fifth article, together with the preliminary articles and declarations preceding, it was agreed that all the conquests made during the war should be restored, and by the ninth article his *Britannick* majesty engaged to send to his most *Christian* majesty immediately after the exchange of the ratifications of the treaty two persons of rank and consideration, to remain as hostages till there should be received a certain and authentic account of the restitution of *Isle Royal*, called *Cape Breton*.

I have set forth the proceedings of the two nations relative to *Nova Scotia* and *Cape Breton*, with other incident matters, during the course of the war thus concluded, 1. because the facts were not generally well known at the time, or have not been since well remembered. 2. Because the proceedings of the *English* laid in a good measure the foundation of later conquests. 3. That the practices of the *French* in this war may in some measure shew their policy with respect to the *Indians*, and to those who from *French* become *British* subjects. 4. That upon recollecting what rapid conquests were made by *France* in *Europe*, and that she had taken from the *English* their principal settlement in *India* — that *Cape Breton* was the sole conquest made by the *English*, and was the fruit of an expedition begun without royal direction, and which, all things considered, I conceive, has not its fellow, and from what imminent dangers *Nova Scotia* was saved by providence, and the extraordinary exertion of the *British* subjects in its neighbourhood,

neighbourhood, and considering what difficulties in case of its loss would have attended the recovery of it by arms or negotiation, together with the losses which the nation has sustained in the fishery otherways, we may be excited to take the best care for the preservation and improvement of what is left.

In the beginning of the year 1749 the governor of *Canada* A. D. 1749. and the bishop of *Quebec* took fresh measures utterly incompatible with his *Britannick* majestys sovereignty over *Nova Scotia*, of which the following copy of part of a letter from Mr. *Shirley* to the marquis *de la Galliffonier*, dated at *Boston* the 9th of *May* 1749, will give the best information within my power.

“ Sir,

“ Two days ago I received from Mr. *Mascarene* a copy of
 “ your letter to him, dated at *Quebec* the 15th of *January*,
 “ wherein, among other demands, you call upon him to acquaint you whether he intends to comprehend the *Abenaki*
 “ *Indians* in the peace, without requiring any kind of submission from them; and desire that in such case he would
 “ engage me to let them resettle in their village, and their
 “ missionaries remain there with them unmolested, as they
 “ did before the war; observing to him that those *Indians*
 “ entered into the war only as your allies, and therefore when
 “ the war was finished with you it ought to be so with regard to them; and you proceed to say, Sir, that if they
 “ thought otherwise in *New England* you shall be obliged to
 “ assist those *Indians*, intimating that it is of importance to
 “ the safety and tranquillity of the frontiers of the *Massachusetts Bay* that you should have a speedy and positive
 “ answer, and that you shall not be surprized if the *Indians*
 “ should proceed to acts of violence.”

“ To this, Sir, which is the fourth demand in your letter,
 “ Mr. *Mascarene* having referred you to me upon it, I shall
 “ comply with your request in giving as speedy and positive
 “ an answer as may be.”

“ The river of *St. Johns*, upon which that part of the
 “ *Indians* to which you chiefly refer, is seated, has been ever
 “ deemed to be situated within the heart of *Nova Scotia*, and
 “ consequently that tribe of *Indians*, together with the *French*
 “ inhabitants upon the same river, are within his majestys
 “ territories; and accordingly, Sir, the latter have acknow-
 “ ledged themselves ever since the treaty of *Utrecht*, to be the
 “ subjects of *Great Britain* by taking the oaths of fidelity and
 “ allegiance to it, and have had the protection of his majestys
 “ government in common with his other subjects in that pro-
 “ vince: this being the case, these *Indians* when the advice of
 “ a rupture between his majesty and the king your master was
 “ hourly expected, under the pretext of sending a deputation
 “ to Mr. *Mascarene*, to desire they might remain in peace
 “ and amity with the *English* notwithstanding war should
 “ happen between the two crowns, gained admission into
 “ *Annapolis Royal* for some of their tribe, who were in reality
 “ (as it afterwards proved) spies; and having obtained Mr.
 “ *Mascarenes* agreement to what they pretended to propose
 “ in behalf of their tribe, and being honourably treated and
 “ dismissed by him, returned in three weeks after, among others
 “ of their tribe, with the missionary *Le Loutre* at their head,
 “ surprized and killed as many of the *English* at *Annapolis*
 “ *Royal* as they caught without the fort, destroyed their cattle,
 “ burnt their houses, and continued acts of hostility against
 “ the garrison till the arrival of the first party of succours
 “ which I sent it from *New England*; such was the entrance
 “ of these *Indians*, Sir, into the war with us, and their alli-
 “ ance with you.”

“ For this perfidious behaviour I caused war to be declared
 “ in his majestys name against them at *Boston* in, *November*
 “ 1744, and, so far as it depends upon me, they shall not be
 “ admitted to terms of peace till they have made a proper
 “ submission for their treachery, unless they should be already
 “ comprehended in the definitive treaty of peace and friend-
 “ ship

“ ship lately concluded at *Aix la Chapelle*, which I shall on my part strictly observe in every point.”

“ As to what you have thought fit to declare, Sir, in your letter concerning your intentions to support the *Indians* in acts of hostility against us, unless we give them peace upon the terms there prescribed by you, and the danger which the frontiers of the *Massachusetts Bay* in particular may be in, unless you have a speedy and positive answer upon this head; what I have to say in answer is, that I shall be sorry for a new rupture between us, and am very desirous to have perfect tranquillity restored to the province under my government; but if the latter is not to be the case, and you think fit to make yourself a party in an *Indian* war against us; I doubt not but his majestys subjects upon this continent will be able to make just reprisals upon *Canada*, when it shall be his majestys pleasure to have them do it.

“ I can't avoid expressing great surprize at the other parts of your letter, whereby you take upon you to call Mr. *Mascarene* to account for expelling the missionary from *Minas*, for being guilty of such treasonable practices within his majestys government as merited a much severer punishment than that of expulsion from the province.”

“ The right you claim of sending missionaries from *France* to reside among his majestys subjects of *Nova Scotia* as their priests, and in consequence of that your forbidding his majestys governor to make any alteration in the state of religion and its ministers there, is still more extraordinary; and I must not omit upon this occasion to remark to you that I think the letter which the bishop of *Quebec* lately wrote to Mr. *Mascarene* concerning his intended visitation of his majestys subjects in that government in such terms as shewed he looks upon them as part of his cure of souls, and within his jurisdiction, was likewise an extraordinary attempt, and can't be admitted.”

“ Your interfering in his majestys punishment of his subjects in *Nova Scotia*, inflicted for rebellious and treasonable practices against his crown, and his requiring others of them to renew their oaths of fidelity; and in one word your treating the subjects of the crown of *Great Britain* in that province as if you looked upon them as subjects of his most Christian majesty, and being under his allegiance, is, if possible, still more surprizing; and as these attempts are manifest invasions of the undoubted right which every prince has over his subjects, I can’t but look upon them as insults upon his majestys government which require no further answer.”

“ After these attempts, Sir, upon his majestys right of government over his subjects in *Nova Scotia*, I am less surprized at your encroachments upon the limits of his province, which you are pleased to call in your letter dependences of the government of *Canada*.”

In the ensuing summer the governor of *Canada* sent an officer with a party of soldiers to take possession of *St. Johns* river, and, that they might give the less alarm to the *English*, this party, according to my information, did not exceed thirty men: and as the most flagrant violations of the rights of others are seldom committed without some pretence, in order to palliate, if possible, this hostile proceeding, whereby they seized a country to which the *British* crown had a clear right by the *Utrecht* treaty, accompanied with thirty years possession, without molestation or claim, they pretended they were to stay there only till commissaries appointed by *Great Britain* and *France* should settle the limits of *Acadia*, of which province the *French* governor now pretended this river was not part, but of the dependences of *Canada*. This party not being repelled upon their coming they continued from time to time encreasing various ways in their number, adding encroachment to encroachment, and one hostility to another, until they had seized the main body of the province, and brought

brought the whole into that state of distress and danger represented by the governor, solicitous for its preservation, in his letter of the 9th of May 1750, to the lieutenant governor A. D. 1750. of *Massachusetts Bay*, as follows.

“ Sir,

“ I wrote you some time ago my thoughts concerning the
 “ *Massachusetts* province remaining at peace with the *Indians*,
 “ while they under the direction of the *French* are doing
 “ every mischief in their power in *Nova Scotia* — I acquainted
 “ you that I had sent a detachment under the command of
 “ major *Laurence* to dislodge the *French* and *Indians* from
 “ *Chinecto*, and to establish themselves there — Four hundred
 “ men, regulars and rangers, was all the force I could prudently spare: I had very strong reasons for sending this
 “ detachment at this time rather than wait for additional
 “ forces from *England*.”

“ I was sure the *French* could not have raised any considerable works in winter, but that they would undoubtedly make some works of consequence this spring, and if joined heartily by the inhabitants might execute such a work as it would be very difficult to master — It was not altogether certain that more force should be sent from home, nor could the time of their arrival be depended upon.”

“ I knew that *La Corne* and *Loutre*, and the other priests at *Chinecto*, have been doing such mischief in this province as one nation never attempted towards another in profound peace — I know that they made the *St. Johns* tribe break their treaty — I know they set the *Micmacs* against us — They made the inhabitants of *Chinecto* swear allegiance to the *French* king — That *Loutre* has been more than once at *Cobequid* to stir the other inhabitants to rebellion --- That messengers, promises and threats have been constantly sent to his majestys subjects the *French* inhabitants all over the province,

“ vince, to make them retire — That they are threatened with
 “ a general massacre if they remain.”

“ All these reasons determined me to try with the force I
 “ have to secure *Chinecto* --- Little did I think that any *French*
 “ officer would presume to go the lengths that you will find
 “ *La Corne* has done; he set fire to *Beaubassin* the minute
 “ the vessels were in sight --- He carried all the inhabitants
 “ with their effects beyond the river; there he planted *French*
 “ colours, and lined the dykes with his troops, *Canadians*, the
 “ rebel inhabitants, and the savages: the whole amounted to
 “ 2500 men --- He plainly declared to major *Laurence* that
 “ he would defend that side of the river as the king of *Frances*
 “ to the last extremity --- They openly claim the north side of
 “ the bay of *Fundy* from *Chinecto* to *Kennebec* river.”

“ The *French* inhabitants harrassed and molested by the
 “ *French* and savages, and despairing of our being able to
 “ protect them (and indeed without a force at *Chinecto* 'tis
 “ impossible) have all of them resolved to quit the province,
 “ and throw themselves into the arms of the *French* --- All
 “ these inhabitants the *French* propose to settle on the north
 “ side of the bay of *Fundy*.”

“ This, Sir, is a plain account of the faithless violent pro-
 “ ceedings of the *French*, and their ambitious views.”

“ If we allow their schemes to be carried into execution
 “ the consequence will be certain ruin not to this province
 “ only, but to all the northern colonies.” --- The *French* after
 this continued their hostilities, and erected fort after fort, to
 secure the main part of the province already seized, and lay
 the rest, left to the *English* for the present, under so many
 different fires as cooperating with that of *Louisbourg* would
 greatly assist them to reduce this remnant also, whenever they
 should think fit to make the attempt.

In the mean time commissaries being appointed by the two
 crowns to settle the limits of their respective dominions in
North America, and their negotiations taking place, on the 21st
 day

day of *September 1750*, the *British* commissaries, by their writing under their hands, after reciting the aforesaid cession of all *Nova Scotia* or *Acadia* to the crown of *Great Britain* by the treaty of *Utrecht*, with the subsequent authentic act signed by the *French* king at *Marli*, whereby he yielded up the said country with all its dependences to the queen of *Great Britain*, declared what were the limits which they demanded as the true boundaries thereof, to wit--- “ On the “ West, towards *New England*, by the river *Penobscot*, otherwise called *Pentagoet*, that is to say, beginning at its entrance, “ and from thence drawing a straight line Northward to the “ river of *St. Laurence*, or the great river of *Canada*:--- On “ the North by the said river of *St. Laurence*, going along “ the South-side of it to *Cape Rosiers*, situated at its entrance.---To the East, by the great gulph of *St. Laurence* “ from the said *Cape Rosiers*, running South Eastwards, by “ the islands of *Baccalio* or *Cape Breton*, leaving these islands “ at the right, and the gulph of *St. Laurence* and *Newfoundland*, with the islands belonging thereto, on the left, unto “ the cape or promontory called *Cape-Breton*:---And, to the “ South by the great *Atlantic* ocean, drawing to the South- “ West from the said *Cape-Breton*, by the cape *Sable*, taking “ in the island of that name, round about the bay of *Fundi*, “ which goes up Eastward into the country, to the entrance “ of the river *Penobscot*, or *Pentagoet*.

“ And agreeable hereto the said commissaries demand all “ the lands, continents, islands, coasts, bays, rivers and places “ which are comprised within the said limits, or are dependent on the said *Nova Scotia*, or *Acadia*, bounded as above, “ with the sovereignty, property, &c. as belonging to the “ crown of *Great Britain* by virtue of the said twelfth article “ of the treaty of *Utrecht*, without reservation or diminution, “ except the said island of *Cape-Breton*, and the islands situated “ at the mouth of the river of *St. Laurence*, or in the gulph “ of the same name, the which are reserved to the crown of “ *France*.

“ *France* by the 13th article of the said treaty. And without
 “ that it be permitted to the subjects of the crown of *France*
 “ to fish in the seas, bays, and other places within thirty
 “ leagues distance South East of the coasts of the said *Nova*
 “ *Scotia* or *Acadia*, beginning from the said island of *Sable*
 “ inclusively, and stretching along to the South West [b].”

When a river divides the dominions of princes, a line conceived to pass along the middle of it is the true limit of each dominion, in all cases wherein special rights do not intervene. The grant made by king *James* to Sir *William Alexander* comprehended all the rivers, islands and seas lying near or within 6 leagues of the lands of the continent by him granted, on the West, North, and East parts thereof; yet, to say nothing of any other part, the northern boundary of the *British* dominion claimed by the *British* commissaries includes neither such part of the river *Canada*, or *St. Laurence* as belonged to the crown of *Great Britain* by force of the general rules of sovereignty and propriety taking place between princes in such cases, nor the 6 leagues in breadth of that river granted by the charter of king *James*; on the contrary the dominion claimed is expressly bounded on the North by the river of *St. Laurence*, going along the South side of it to cape *Rosiers*.

This claim, saving the islands specially reserved to *France*, comprised all the lands which under the name of *Acadia* were in 1670 delivered up by *Charles II* to *Lewis XIV*, pursuant to the treaty of *Breda*, and no other lands; nevertheless the *French* commissaries by their memorial of the 21st of *September* 1750 declared, “ That it resulted from the treaty, 1st, That
 “ *Annapolis* was not comprised in the ancient limits of *Acadia*,
 “ which was also conformable to the most ancient descriptions of the country, and consequently ancient *Acadia* contained only part of the peninsula of that name. 2^{dly}, That
 “ the island of *Canso* being situated in one of the mouths of
 “ the gulph of *St. Laurence* belonged to *France*. 3^{dly}, That

[b] Memorials of the *English* commissaries, &c. p. 7. 9.

“ the

“ the limits between *New England* and *New France* ought
 “ not to have undergone any change, and ought now to be
 “ what they were before the treaty of *Utrecht*, which hath
 “ altered nothing in that respect.” And by their memorial
 of the 16th of *November* following they express themselves
 thus. “ The commissaries of his *Britannick* majesty having
 “ desired the commissaries of the king to explain themselves
 “ more precisely respecting the ancient limits of *Acadia*, the
 “ said commissaries of the king declare that the ancient *Acadia*
 “ beginneth at the extremity of *Baye Françoise*, from cape *St.*
 “ *Mary*, or cape *Fourchu*; that it extendeth itself along the
 “ coasts, and terminateth at cape *Canso* [i].”

Whereupon the *British* commissaries proceeded, and by a
 series of authentic, forcible, and proper evidence, with clear,
 solid, and conclusive reasons, maintained the *British* claim
 against all objections, fully refuting the *French* pretensions,
 and frustrating their manifold devices. The public being in
 possession of the *British* proofs and arguments, with the pre-
 tensions of the *French* commissaries, it may suffice here to
 say that, contrary to the course of historical and geographical
 knowledge—to the most solemn transactions of the two
 crowns, whereby the country of *Acadia* as now claimed was
 by the *English* several times delivered up to the *French*,—to
 the express adjudication and determination made by king
Charles II. at the instance of *France*, with the subsequent exe-
 cution—to that notorious extended possession which ever
 accompanied the *French* title when they held this country
 under the name of *Acadia*—to the *French* declarations when
 they attempted to enlarge the bounds of *Acadia*, and make
 a portion of *New England* part of it—to the *acta regia* of
 the *French* crown for the government of it when parcel of
 their dominion—and contrary to the plain sense of the
Utrecht treaty, and the order of the *French* king given for
 yielding up this province to the queen of *Great Britain*, they

[i] Memorials of the *English* commissaries, &c. p. 10, 11.

attempted to reduce this extensive country to that small part of it which is described in the annexed map. These negotiations proving unprofitable to *Great Britain*, and the *French* during their course continuing their violence, and strengthening their hold of this province, and moreover proceeding to make fresh invasions of other parts of the *British* territories, resolutions were taken for effectually repelling force with force. These vigorous measures were followed by an open war, the events whereof relative to the fishery considered in its largest extent are so recent and well known as to require no particular mention. After many victories obtained by the *British* arms negotiations in order to a peace between the two crowns commenced in *March 1761*, and continued to *September* following, of which I shall at present take no farther notice than that on the 15th of *July France* suddenly departed from the regular course of proceeding, and, instead of confining herself to the proper objects of consideration between the two belligerent powers, attempted to negotiate with *Great Britain* certain articles on behalf of *Spain*, then in amity with her, one whereof was, "The privilege for the *Spanish* nation to fish upon the banks of *Newfoundland*." This attempt, which was justly resented, and the family convention concluded between the kings of *France* and *Spain* upon the 15th of *August* following, with their subsequent measures, have given to us and the *Portuguese* a taste of the fruit of the *Utrecht* treaty; to which may be added that at the time when the single life standing between the crown of *France* and the hereditary right of the king of *Spain* was in danger, and a successor became the object of consideration, it was understood in *France*, as I have been well informed, that in case death ensued, the king of *Spain* would ascend the throne without opposition, all the stipulations contained in the *Utrecht* treaty to the contrary notwithstanding.

A. D. 1762. On the 3^d day of *November 1762* preliminary articles of peace between his *Britannic* majesty, the most *Christian* king, and

and the *Catholic* king, were signed at *Fontainebleau*, containing the following cessions and stipulations; viz. article 2^d.
 “ His most *Christian* majesty renounces all pretensions
 “ which he has heretofore formed, or might have formed,
 “ to *Nova Scotia* or *Acadia*, in all its parts, and guaranties
 “ the whole of it, with all its dependencies, to the king of
 “ *Great Britain*: moreover his most *Christian* majesty cedes
 “ and guaranties to his said *Britannic* majesty, in full right,
 “ *Canada*, with all its dependencies, as well as the island of
 “ *Cap Breton*, and all the other islands in the gulf and river
 “ of *St. Laurence*, without restriction, and without any
 “ liberty to depart from this cession and guaranty, under any
 “ pretence, or to trouble *Great Britain* in the possessions
 “ above-mentioned.”—article 3^d. “ The subjects of *France*
 “ shall have the liberty of fishing and drying on a part of the
 “ coasts of the island of *Newfoundland*, such as it is specified
 “ in the 13th article of the treaty of *Utrecht*; which article
 “ shall be confirmed and renewed by the approaching defini-
 “ tive treaty (except what regards the island of *Cap Breton*,
 “ as well as the other islands in the mouth and in the gulf
 “ of *St. Laurence*;) And his *Britannic* majesty consents to
 “ leave to the most *Christian* kings subjects the liberty to fish
 “ in the gulf of *St. Laurence*, on condition that the sub-
 “ jects of *France* do not exercise the said fishery but at the
 “ distance of three leagues from all the coasts belonging to
 “ *Great Britain*, as well those of the continent as those of the
 “ islands situated in the said gulf of *St. Laurence*. And as
 “ to what relates to the fishery out of the said gulf, his
 “ most *Christian* majestys subjects shall not exercise the fishery
 “ but at the distance of fifteen leagues from the coasts of the
 “ island of *Cap Breton*. — article 4th. “ The king of *Great*
 “ *Britain*, cedes the islands of *St. Peter* and of *Miquelon*,
 “ in full right, to his most *Christian* majesty, to serve as a
 “ shelter for the *French* fishermen; and his said majesty
 “ obliges himself, on his royal word, not to fortify the said
 “ islands;

“ islands; to erect no buildings there but merely for the convenience of the fishery; and to keep there only a guard of fifty men for the police.” And,

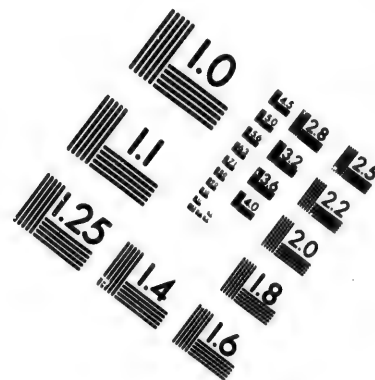
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On the 10th day of *February* following a definitive treaty of peace between these monarchs was concluded at *Paris*, in which the cessions and stipulations are thus expressed; viz. article 4th. “ His most *Christian* majesty renounces all pretensions which he has heretofore formed, or might form, to *Nova Scotia* or *Acadia*, in all its parts, and guaranties the whole of it, and with all its dependencies, to the king of *Great Britain*: Moreover his most *Christian* majesty cedes and guaranties to his said *Britannic* majesty, in full right, *Canada*, with all its dependencies, as well as the island of *Cape Breton*, and all the other islands and coasts in the gulf and river *St. Laurence*, and, in general, every thing that depends on the said countries, lands, islands, and coasts, with the sovereignty, property, possession, and all rights acquired by treaty or otherwise, which the most *Christian* king, and the crown of *France*, have had till now over the said countries, islands, lands, places, coasts, and their inhabitants, so that the most *Christian* king cedes and makes over the whole to the said king, and to the crown of *Great Britain*, and that in the most ample manner and form, without restriction, and without any liberty to depart from the said cession and guaranty, under any pretence, or to disturb *Great Britain* in the possessions above mentioned” — Article 5th. “ The subjects of *France* shall have the liberty of fishing and drying on a part of the coasts of the island of *Newfoundland*, such as it is specified in the 13th article of the treaty of *Utrecht*; which article is renewed and confirmed by the present treaty (except what relates to the island of *Cape Breton*, as well as to the other islands and coasts, in the mouth and in the gulf of *St. Laurence* :) And his *Britannic* majesty consents to leave to the subjects of the most *Christian* king the liberty of fishing in the gulf

“ gulf *St. Laurence*, on condition that the subjects of
 “ *France* do not exercise the said fishery but at the distance
 “ of three leagues from all the coasts belonging to *Great*
 “ *Britain*, as well those of the continent as those of the islands
 “ situated in the said gulf *St. Laurence*. And as to what
 “ relates to the fishery on the coasts of the island of *Cape*
 “ *Breton* out of the said gulf, the subjects of the most *Christian*
 “ king shall not be permitted to exercise the said fishery but
 “ at the distance of fifteen leagues from the coasts of the island
 “ of *Cape Breton*, and the fishery on the coasts of *Nova Scotia*
 “ or *Acadia*, and every where else out of the said gulf, shall
 “ remain on the foot of the former treaties.”—Article 6th.
 “ The king of *Great Britain* cedes the islands of *St. Pierre*
 “ and *Miquelon*, in full right, to his most *Christian* majesty,
 “ to serve as a shelter to the *French* fishermen: And his said
 “ most *Christian* majesty engages not to fortify the said
 “ islands; to erect no buildings upon them but merely for
 “ the convenience of the fishery; and to keep upon them a
 “ guard of fifty men only for the police.”

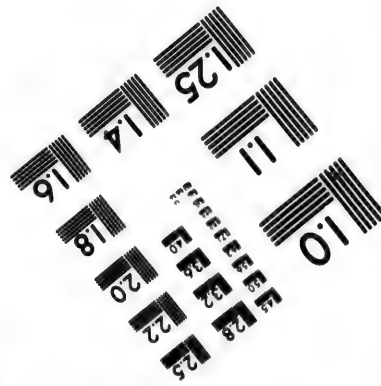
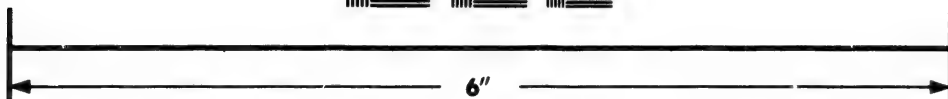
Considering the nature and extent of the fishery, and the
 past conduct of *France*, too great care, in my poor opinion,
 could not be taken to ascertain with precision how far the
French subjects should for the future partake of it; yet by
 the last member of the 3^d preliminary article, containing these
 words. “ And as to what relates to the fishery out of the said
 “ gulf, his most *Christian* majestys subjects shall not exercise the
 “ fishery but at the distance of fifteen leagues from the coasts of
 “ the island of *Cap Breton*.” Several valuable parts of the fishery,
 according to my sense of the matter, were opened to the *French*
fishermen, through inadvertence, I presume, and in particular
 the fishery lying within thirty leagues distance from the coasts
 of *Nova Scotia*, secured to *Great Britain* by the treaty of
Utrecht. Better provision has been made herein by the 5th
 article of the treaty, which concludes with these words:
 “ And as to what relates to the fishery on the coasts of the
 “ island.





Resolution Test Chart Labels:

- 1.0
- 1.1
- 1.25
- 1.4
- 1.6
- 1.8
- 2.0
- 2.2
- 2.5
- 2.8
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“ island of *Cape Breton* out of the said gulf, the subjects of
 “ the most *Christian* king shall not be permitted to exercise
 “ the said fishery but at the distance of fifteen leagues from the
 “ coasts of the island of *Cape Breton*, and the fishery on the
 “ coasts of *Nova Scotia* or *Acadia*, and every where else out of
 “ the said gulf, shall remain on the foot of former treaties.”
 The exclusive fishery on the coasts of *Nova Scotia* is hereby
 well secured, together with that within fifteen leagues distance
 from the coasts of *Cape Breton*; but as to the fishery every
 where else out of the gulf, which it is said shall remain on
 the foot of former treaties, after considering all the other
 parts of the fishery lying out of the gulf, and the supposed
 regulations thereof by former treaties, which are intended to
 be continued for the future, for my part I do not know that
 there are any former treaties subsisting which comprise these
 other parts of the fishery, and contain the regulations thereof
 thus supposed.

With respect to the islands of *St. Peter* and *Miquelon* the
 reader may depend on the following account of them, with
 their state at the negotiation of the treaty. “ The island of
 “ *St. Peter* is above five leagues in circumference, in which
 “ there is but one harbour, where about 25 sail of small ships
 “ may ride in $3\frac{1}{2}$ fathom water. It is a barred harbour,
 “ with about 14 feet water at spring tides; but in the road
 “ 30 ships of any draught of water may ride from 4 to 12
 “ fathom water. At present there are but from 30 to 40
 “ boats employed in that fishery, with eight vessels, but
 “ capable for carrying on the fishery with 300 boats; and
 “ the great advantage of the fishery at *St. Peters* is that the
 “ fish are caught and cured much sooner there than on any
 “ other part of the land [*k*], and consequently fit for an early
 “ market.”

[*k*] The island of *Newfoundland*, by merchants, sailors and others con-
 cerned there called, *The Land*.

“ In

“ In the island of *Miquelon* there is no harbour, but a very
 “ good road in the north part of it, capable of riding 40 sail
 “ of ships of any draught of water, and room for curing fish
 “ for 300 boats. It is a fine spot of pasture ground for feed-
 “ ing and fattening of cattle, no land in *England* being
 “ superior to it — It is about ten leagues long, and about three
 “ or four miles broad on an average; it has likewise the
 “ advantage of carrying on an early fishery. *St. Peters* lies
 “ about West, distance twelve leagues from *Le Chapeau*
 “ *Rouge*, the western part of *Placentia* bay, and about five
 “ leagues from *Cape May*, the south east part of *Fortune* bay.”

“ From *Miquelon* head to the western part of the bay of
 “ *Fortune* is about eight leagues, and lies directly in the mouth
 “ of *Fortune* bay.”

“ *St. Peters* and *Miquelon* thus situated in the mouth of the
 “ bay of *Fortune* are as it were calculated for carrying on a
 “ clandestine trade, which will in all human probability be
 “ the ruin of the fair traders.”

“ There are many fine harbours in the bay of *Fortune*,
 “ particularly harbour *Britain*, where the whole navy of *Eng-*
 “ *land* may ride in safety, and where the fishery is now
 “ carried on in summer and winter with good success, and no
 “ ships can go in or out of this bay without being seen by
 “ the *French* in *St. Peters*, or *Miquelon*.”

To this it may be added that the island of *St. Peter* is
 situated at the North West point of the great bank of that
 name, and *Miquelon* lies on the North East side of the widows
 bank.

One of the designs of *France* from the beginning of the
 negotiation in 1761, I apprehend, was under pretence that
 an island, or other port, was necessary as a place of shelter for
 the *French* vessels, that were to enjoy the liberty of fishing
 within certain limits to be assigned, which liberty in its nature
 was to be held in common with the *British* subjects, to ob-
 tain not only an additional fishery, but one that should be
 moreover

moreover wholly or chiefly exclusive, with the sovereignty and propriety of such island, or port, put under as few restrictions as possible. This design, I think, plainly appears in the course of the negotiation contained in her Historical Memorial, composed by the order of the king, signed, “Le Duc de Choiseul,” and published at *Paris* in that year; and for the better understanding of all the proceedings relating to the fishery in general, as well as to the point of shelter in particular, I shall collect and insert from it such parts as respect this subject. In the observations on the *British* memorial of the 17th of *June* 1761, page 26, of the *English* translation, it is said, “Before a memorial of propositions was sent in form
 “to the court of *London*, his majestys minister, entrusted to
 “confer with Mr. *Stanley*, gave him previous assurances of
 “the sacrifices which his majesty had resolved to make. He
 “authorized him to write word, that *France* would guaranty
 “the possession of *Canada* to *England*, provided that *England*
 “would restore to the king the island of *Cape Breton*, and
 “confirm the right of the *French* to fish, and dry their fish,
 “in the gulf of *St. Laurence*, upon the coast, and in the
 “island of *Newfoundland*. As the island of *Cape Breton*, if
 “fortified, might afford *England* matter of jealousy, the
 “*French* minister told Mr. *Stanley* that the king engaged to
 “destroy all the fortifications which might remain in that
 “island, and not to erect any new ones upon any pretence
 “whatever, the port of *Louisbourg* being to be considered
 “only as a shelter for the fishermen in the gulf of *St. Lau-*
 “*rence*, and on the coast of *Newfoundland*.”---and a little
 after, “The answer from *England* arrived the 30th *June*.
 “Mr. *Stanley* had a conference with the duke de *Choiseul*
 “respecting this answer; and in the course of that conference
 “he started three difficulties on the part of his court. The
 “first concerned *Cape Breton*. *England* absolutely refused
 “to cede that island to *France*, even upon the condition that
 “no military establishment whatever should be kept on foot
 “there

" there. Mr. *Stanley* intimated that his court had no in-
 " tention of restoring any island or port in the gulf of *St.*
 " *Laurence*, or within reach of that gulf. He added that
 " *England* would make no difficulty of allowing the liberty
 " of fishing and drying the fish on the shores of *Newfound-*
 " *land*; but that this would be granted on condition that
 " *Dunkirk* was demolished, as it was stipulated to have been
 " by the treaty of *Utrecht*."---and Page 27. " The liberty
 " of fishing, and the shelter without fortifications, was the
 " compensation for the cession of all *Canada*, and of the
 " guaranty which *France* offered to make to *England* of that
 " considerable part of North *America*." The *French* me-
 " morial of the 15th of *July* contains the following demand,"
 page 29, " Fourthly, that the liberty of fishing, and of dry-
 " ing their cod-fish on the banks of *Newfoundland*, may be
 " confirmed to the *French* as heretofore: and as this con-
 " firmation would be illusory if the *French* vessels had not a
 " shelter in those parts appertaining to their nation, the king
 " of *Great Britain*, in consideration of the guaranty of his
 " new conquests, shall restore *Isle Royal*, or *Cape Breton*, to be
 " enjoyed by *France* in entire sovereignty. It is agreed to
 " fix a value on this restitution, that *France* shall not, under
 " any denomination whatever, erect any fortifications on the
 " island, and shall confine herself to maintain civil establish-
 " ment there, and the port for the convenience of the fishing
 " vessels landing there." In " The answer of the *British*
 " court to the memorial of *French* propositions, 29th *July*
 " 1761," and called " A paper of articles to be delivered to
 " Mr. *Stanley* as the definitive propositions from the court of
 " *Great Britain*," the first article runs thus, page 37. " His
 " *Britannic* majesty will never recede from the entire and total
 " cession on the part of *France*, without any new limits, or any
 " exception whatever, of all *Canada* and its appurtenances;
 " and his majesty will never relax with regard to the full and
 " compleat cession on the part of *France*, of the isle of *Cape*
 " *Breton*,

“ *Breton*, and of all the other islands in the gulf or in the
 “ river of *St. Laurence*, with the right of fishing which is in-
 “ separably incident to the possession of the aforesaid coasts,
 “ and of the canals or streights which lead to them.” And
 the fourth declares, “ *Dunkirk* shall be reduced to the con-
 “ dition in which it ought to have been after the treaty of
 “ *Utrecht*, without which no peace can be concluded; and
 “ upon that condition only can his majesty ever consent to
 “ enter on the consideration of the demand which *France*
 “ has made, viz. The restitution of the privilege granted by
 “ the thirteenth article of the said treaty, with certain limi-
 “ tations, and under certain restrictions, for the subjects of
 “ *France* to fish and dry their fish on part of the banks of
 “ *Newfoundland*.” It is observed in the Historical Memorial,
 page 39, that, “ The first article of this sketch entirely de-
 “ prived the *French* of the liberty of fishing for cod; and the
 “ demolition of *Dunkirk* required in the 4th article only re-
 “ stored this liberty in part, with certain limitations, and under
 “ certain restrictions which were not explained.” The first
 article of the “ *Ultimatum* of *France* in reply to that of *Eng-*
 “ *land* of 5th of *August*, 1761, which was remitted to the
 “ duke de *Choiseul* by Mr. *Stanley*, contains the following
 “ words, page 40,---With regard to the fishery in the gulf of
 “ *St. Laurence* the king means to maintain the immemorial
 “ right which his subjects have of fishing in the said gulf, and
 “ of drying their fish on the banks of *Newfoundland*, as it
 “ was agreed by the treaty of *Utrecht*. As this privilege
 “ would be granted in vain if the *French* vessels had not some
 “ shelter appertaining to *France* in the gulf, his majesty pro-
 “ posed to the king of *Great Britain* the restitution of the
 “ island of *Cape Breton*; he again proposes either that island,
 “ or *St. John*, or such other port, without fortification, in the
 “ gulf, or within reach of the gulf, which may serve the *French*
 “ as a shelter, and secure to *France* the liberty of fishing,
 “ from whence his majesty has no intention to recede.” And

in the 4th article, page 41, it is said, "According to the treaty of *Utrecht*, the demolition of *Dunkirk* was not assented to as a compensation for the liberty of drying codfish on the banks of *Newfoundland*; it is the cession of *Newfoundland* on the part of *France* which is the ground of that compensation: but the king to testify to all *Europe* his sincere desire of peace, and to remove all obstacles which the enemies to peace may throw in the way, authorizes his minister at *London* to negotiate concerning the state of *Dunkirk*, so soon as a convenient port shall be agreed upon in the gulf of *St. Laurence*, or within reach of the gulf, which shall be ceded to *France*, to serve as a shelter for her fishing vessels."

In the Historical Memorial, page 46, it is observed that "The king ordered M. *Bussy* by the instructions which were sent to him with the *Ultimatum*, to agree to the cession of *Canada* in the full extent which *England* desired it, so that the fishery on the coast and in the gulf of *St. Laurence* was maintained to *France*, and that *England* would appoint a port in that part which might be subject to the sovereignty of his majesty, and serve the *French* fishermen for a shelter. — and his majesty made the sacrifice of *Dunkirk* in compensation of the security of fishing in the gulf of *St. Laurence* in favour of his subjects." Mr. *Pitt* in his letter to M. *Bussy*, August 15th, page 48, says--- "it belongs therefore, Sir, to *Europe* to judge whether this is the court which has shewn an aversion to peace, or whether it is not that which after so many variations and delays on her part arbitrarily continues to insist on objects in *America* which we have a right to by the *Uti possidetis*, and which would make a direct attempt on the essential rights of our conquests of *Canada* and its appurtenances in the gulf of *St. Laurence*." In "The answer of *England* to the *Ultimatum* of *France*, received the 1st of *September*," it is said in the first article, page 50. "The king will not desert his claim to the entire

“ and total cession of all *Canada* and its dependencies, with-
 “ out any new limits or exceptions whatever; and likewise
 “ insists on the compleat cession of the island of *Cape Breton*,
 “ and of the other islands in the gulf and river of *St. Laurence*.”
 The fourth article, page 51, is thus expressed, “ The im-
 “ portant privilege granted by the 13th article of the treaty
 “ of *Utrecht* under certain limitations and restrictions to the
 “ subjects of *France* for fishing and drying their codfish on a
 “ certain part of the banks of *Newfoundland* has not been
 “ refused by *Great Britain*, but connected with a reciprocal
 “ satisfaction on the part of *France* with regard to the indis-
 “ pensable object of *Dunkirk*, which the king has required,
 “ and still requires: it is therefore on condition that the town
 “ and port of *Dunkirk* shall be put in the condition it ought
 “ to have been in by the last treaty of *Aix la Chapelle*, that
 “ his majesty consents to renew to *France* the privilege of
 “ fishing and of drying their fish by virtue of the treaty of
 “ *Utrecht* upon the aforesaid district of *Newfoundland*.

“ As to the demand which his most *Christian* majesty has
 “ farther made, that his subjects may fish in the gulf of *St.*
 “ *Laurence*, as also to have a port there *without fortifications*,
 “ and subject to the inspection of *England*, as proposed on the
 “ part of the duke *de Choiseul* in his conferences with Mr.
 “ *Stanley* on that head, which port should merely serve as a
 “ shelter to the fishing boats of the *French* nation which shall
 “ land there; the king to manifest to his most *Christian* ma-
 “ jesty, and to the whole world the sincerity of his intentions
 “ with regard to peace, will consent,”

1. “ To grant the *French* subjects the privilege of fishing
 “ in the gulf of *St. Laurence* upon this express condition, that
 “ is to say; that the said *French* subjects shall abstain from
 “ that particular fishery on all the coasts appertaining to *Great*
 “ *Britain*, whether on the continent or on the islands situated
 “ in the said gulf of *St. Laurence*, which fishery the pro-
 “ prietors only of the said coasts have constantly enjoyed and
 “ always

“ always exercised; saving always the privilege granted by
 “ the 13th article of the treaty of *Utrecht* to the subjects of
 “ *France*, to fish and dry their codfish on a part specified on
 “ the banks of *Newfoundland*, which privilege is proposed to
 “ be renewed to *France* as aforesaid.”

2. “ The king will consent to cede to his majesty the isle
 “ of *St. Pierre* with its port, which isle with respect to that
 “ part of *Newfoundland* situate between the bay of *Placentia*
 “ and the bay of *La Fortune*, stands east south east, and its
 “ port opens towards the north east, the interior part of which
 “ port is called *Bourgway*; the isle of *St. Pierre*, which the
 “ king is willing to cede, is divided by a little streight from
 “ another island known by the name of *Maquelon*, or of
 “ *Michelon*, which lies to the north of the said isle of *St.*
 “ *Pierre*.”

“ To the cession of the said isle, as above mentioned, his
 “ majesty annexes four indispensable conditions.”

1. “ That *France*, on no pretence, nor under any denomi-
 “ nation whatever, shall erect any fortifications, either in the
 “ said isle, or in its port, and that she shall not keep any
 “ troops there, nor maintain any military establishment what-
 “ ever.”

2. “ That the said isle and the said port shall only serve as
 “ a shelter for the fishing vessels of the *French* nation, and
 “ that *France* shall not suffer the vessels of any other nation
 “ whatever to partake of the convenience of this shelter for
 “ the fishing boats.”

3. That the possession of the isle of *St. Pierre* as aforesaid,
 “ shall not be construed in any case to confer, transmit, or
 “ participate in any manner whatever the least right or power
 “ of fishing, or of drying codfish, in any part of the coast of
 “ *Newfoundland* beyond the district expressly stipulated and
 “ fixed for that purpose by the 13th article of the treaty of
 “ *Utrecht*, that is to say, *a loco Cap Bonavista nuncupato, usque*
 “ *ad extremitatem ejusdem insulae septentrionalem, indeque ad*
 “ *latus*.”

“ *latus occidentale recurrendo usque ad locum Point riche ap-
pellatum.*”

4. “ That in virtue of the cession of the said island as afore-
said an *English* commissary shall be allowed to reside there,
“ and the commander of the *British* Squadron at *Newfoundland*
“ shall be at liberty from time to time to inspect the said isle
“ and the said port, to see that the stipulations above expressed
“ are punctually observed.” The fourth article of “ The
“ last memorial of *France* to the answer of *England*, September
“ 9th,” contains the following passages, page 56. “ The
“ fourth article of the answer includes variety of objects, each
“ of which requires a particular explanation.”

“ *England* always endeavours to connect the liberty of fish-
ing, and of drying the fish on part of the coast of *New-
foundland*, granted by the fifteenth [1] article of the treaty
“ of *Utrecht*, with the ninth article of the same treaty, which
“ stipulates the demolition of *Dunkirk*; it is given in answer
“ to *England* for the fourth and last time, that those two
“ stipulations of the treaty of *Utrecht* have nothing in com-
mon between them, unless that they are both comprized in
“ the said treaty, and that the concession expressed in favour
“ of the *French* in the thirteenth article of that treaty is a
“ compensation for the cession of *Newfoundland* and *Anna-
polis Royal*, made on the part of *France* to *England* by the
“ twelfth and thirteenth articles of the same treaty.” And,
page 57.

“ As to the fishery and the drying of fish on the banks of
“ *Newfoundland*, the king requires that the thirteenth article
“ of the treaty of *Utrecht* be confirmed by the present treaty.”

“ Concerning the condition proposed by *England*, with
“ respect to the liberty of fishing in the gulf of *St. Laurence*
“ *France* agrees, that beyond the port of *Newfoundland* speci-
“ fied by the thirteenth article of the treaty of *Utrecht*, the

[1] By misprint, or other evident mistake, the fifteenth article is here mentioned instead of the thirteenth.

“ *French* (unless in case of accidents) cannot land on the coasts appertaining to the *English* in the gulf of *St. Laurence*, whether to dry their fish, or to spread their nets on the said coasts; but without these two exceptions the *French* shall be at liberty to fish, without molestation, in all parts of the said gulf of *St. Laurence*.”

“ With respect to the cession of the island of *St. Pierre*, the smallness of that island, and its situation near *Plaisance*, make the king of opinion that such a shelter will be illusory, and will rather serve to breed contests between the two nations, than to procure the accommodations for the fishery of the *French* subjects.”

“ The king had required the isle of *Cape Breton*, or the island of *St. John*; his majesty had even restrained himself to the little island of *Conceau*, and now makes the same proposition to his *Britannic* majesty; or if the king of *England*, for reasons unknown to *France*, cannot agree to the cession of the isle of *Conceau*, it is proposed to add to the cession of *St. Pierre* the island of *Maquelon* or *Michelon*, two islands, of which one, which is *St. Pierre*, is but three leagues wide, and *Michelon* but two. However inconsiderable these two settlements may be, which do not properly make one, the king will accept of them, and will even oblige himself, 1. That neither in one or the other island, or in that of *Conceau*, if *England* cedes the latter, there shall be any military establishment; *France* will only maintain a guard of fifty men to enforce the police, which it will be necessary to maintain in those islands.”

2. “ As far as possible, considering the weak guard of the police, the king will prevent all foreign vessels, even *English*, from landing at those islands.”

3. “ *France* does not pretend to fish and dry their fish on the coast of *Newfoundland*, but in pursuance of the stipulation of the 13th article of the treaty of *Utrecht*, provided it

“ be

“ be understood that the *French* may fish and dry their fish
 “ on the coasts of *St. Pierre* and *Michelon*.”

4. “ Lastly the king allows that an *English* commissary
 “ shall be resident in the said island, to be witness to the
 “ punctuality with which the stipulated condition of the treaty
 “ shall be observed.”

The next step taken by the *British* court after receiving this memorial was to recall Mr. *Stanley*, who made the application necessary for his return on the 20th.

In the Historical Memorial, page 59, it is said, “ They [the *French*] “ agreed that the liberty of fishing in the gulf of *St. Laurence*, and upon the banks and coasts of *Newfoundland*, “ should be the compensation for the demolition of *Dunkirk*. “ They accepted the cession of the isle of *St. Pierre* on conditions more than burthen some: the union of *Michelon* to “ *St. Pierre* was of the least consequence, and the duke de “ *Choiseul* even assured Mr. *Stanley* that such a cession would “ not be insisted on.”

“ It is true the king rejected the inspection of the *English* “ admiral, and that his majesty was resolved rather to refuse “ the possession of *St. Pierre*, than to agree to such an inspection, which was useless for the maintaining the stipulation of the treaty, and injurious to the dignity of the *French* “ nation, as that condition seemed to be proposed only with a “ view to manifest, on the part of *England*, an ill timed superiority.” Lastly, in the 62^d page it is said, “ His majesty “ proposed that the right of fishing and of drying their fish on “ the coast and on the banks of *Newfoundland* should be “ confirmed to *France*, and on that condition she consented to “ the demolition of *Dunkirk*.”

From these extracts, whereby the whole negotiation touching the fishery may be seen at one view, it appears that the fishery on the northern part of *Newfoundland*, extending from cape *Bonavista* on the eastern side, and point *Riche* on the western, to the northernmost point of the island, granted to

France

France by the *Utrecht* treaty, and the fishery in the gulf in general, were the only fisheries which *France* demanded during the course of the negotiation, from its commencement to the delivery of her last memorial. This, I conceive, is worthy of particular notice—That for the sake of these two fisheries the shelter was during this course demanded and insisted on, as necessary to their enjoyment---That *France* having pressed this necessity, by the answer of *England* to the ultimatum of *France*, his *Britannic* majesty consented to cede to the *French* king the island of *St. Peter*, with its port, for that purpose, upon certain express and indispensable conditions, containing apt and effectual provision for confining this island with its port at all times to the sole use of the shelter demanded---That *France* hereupon, by her next and last memorial, neither accepted the offer made to her, nor confined herself to the point of shelter; but after objecting to the smallness of the island of *St. Peter*, not to its port, and to its situation with respect to *Placentia*, and mentioning her proposals of other islands, proposed to add to the cession of *St. Peter* the island of *Miquelon*: then speaking of these islands as two inconsiderable settlements, declares that she will accept of them; and afterwards, that she “does not pretend “to fish and dry their fish on the coast of *Newfoundland*, but “in pursuance of the stipulation of the 13th article of the “treaty of *Utrecht*, provided it be understood that the *French* “may fish and dry their fish on the coasts of *St. Pierre* and “*Michelon*.” So that *France* now, departing from the tenor and spirit of all the prior negotiation, proposed to obtain two islands for two settlements, and two fisheries to be carried on upon these islands, instead of one shelter or port, to which her fishing vessels employed in the two aforesaid fisheries demanded in the preceding parts of the negotiation might retire in case of need.

For the better understanding the point of shelter, with the degree of its necessity, it may be considered, that the fishery

The ANCIENT RIGHT of the ENGLISH NATION

was carried on at *Newfoundland* many years before any settlement was made there — that by the law of humanity or natural justice, ever chearfully observed by the *British* government, the vessels belonging to the subjects of any prince in amity, when in distress, have a right to come into the *British* ports for safety and succour --- that the fishery on the north part of *Newfoundland*, granted to *France* by the treaty of *Utrecht*, is the sole fishery for which shelter, by the *French* memorial of the 15th of *July* 1761, was required. By this fishery *France* has been chiefly enabled to supply foreign markets ; and with regard to the shelter pretended to be necessary to it, it may be considered, that all the fish, whether caught by boats or large vessels, is dried, cured and prepared to be shipped in harbours or bottoms of deep bays, which are in themselves places of shelter to the fishing vessels --- that by the treaty the subjects of *France* were not to resort to the island of *Newfoundland* beyond the time necessary for fishing and drying of fish — that cape *Bonavista* lies at the distance of about 483 miles from the harbour of *Louisbourg* in *Cape Breton*, the island proposed by this memorial as a place of shelter for this fishery, and point *Riche* lies at the distance of about 342 miles from the same harbour --- that the islands of *St. John* and *Canso* lye at still farther distances. And with respect to the fishery in the gulf, which was to be allowed to *France*, for the sake whereof shelter was also demanded, it may be observed that as all the islands and lands in and near the gulf were to be retained by *Great Britain*, the fish caught there by the *French* subjects, in order to be dried and cured, of necessity was to be carried to some of those harbours in *Newfoundland*, to the use whereof they had good right by the *Utrecht* treaty --- that from the nature of this fishery, and its connection with the other, their annual duration must be the same — that the most desirable place of shelter for the *French* vessels fishing in the gulf, if attainable, must be such harbour in *Newfoundland* as they made use of for curing their fish, this being the seat
of

of their connections during the fishing season, and where they might unlade, in order to be cured, such quantity of fish as they should have on board when compelled to seek shelter, whereas upon their going to any of the islands proposed by *France* for shelter, such island according to the negotiation being to be confined to the sole use of shelter, they could not there unlade their fish, and have it dried and cured, but in course must afterwards carry it to the harbour where they carried their other fish, and put it likewise into the hands of their shore men to be cured---that nevertheless in some cases the *French* vessels fishing in the gulf might be obliged to bear away to the southward for shelter, and ~~and~~ such case a port wherein they could be assisted by their countrymen might be more desirable than a *British* port: but considering that the fishery upon the coasts of the islands and of the continent was to be retained by *Great Britain*, as well as the lands, and that there are but few fishing banks in the gulf, and those not large, it appears to me that the vessels who should have sought shelter in any of the places proposed, where they could find nothing else, would not have been many; and I am inclined to think that if the island of *St. Peter* had been accepted upon the conditions annexed the *British* commissary during a whole fishing season would have seen but few vessels come thither out of the gulf for shelter, and not one from the fishery on the northern part of *Newfoundland*; and it is to be observed that *France* made no objection to the situation of this island with respect to either of these fisheries. As to her objection to the smallness of the island it appears to me utterly groundless, considering that what was to be granted to her was a port for mere shelter, and the objection to its nearness to *Placentia*, which she in no wise explains or enforces, I cannot discover any foundation for. And furthermore let it be remembered that although *France* by her last memorial “ allowed that an *English* commissary should be resident in “ the said island, to be witness to the punctuality with which

“ the stipulated condition of the treaty should be observed,” yet by her Historical Memorial it is declared that the king rejected the inspection of the *English* admiral, and that his majesty was resolved rather to refuse the possession of *St. Pierre* than to agree to such an inspection, thereby plainly enervating her former pretensions, that a port of shelter was so necessary to her enjoyment of the liberty of fishing that the grant thereof would be illusory without it; and it is also to be remembred that in the Historical Memorial it is further declared by *France* that, “ the union of *Miquelon* to *St. Pierre* “ was of the least consequence, and the duke de *Choiseul* even “ assured Mr. *Stanley* that such a cession would not be insisted on”---For my own part, after giving the best consideration in my power to every thing that has occurred to me relating to this matter, I have not been able to discern the sufficiency of the reason for granting the sovereignty and property of the port of shelter which was to be enjoyed by *France* together with, and for the sake of the liberty of fishing in other places, that is, in other words, why the principal, the liberty of fishing, should draw after it an accessory or attendant of so far superior and nobler a nature as that of sovereignty with propriety, and why granting the use of a particular port, which seems more analogous to the liberty of fishing, should not in the nature and reason of the case suffice.

The nature operation and effects of the cession of the islands of *St. Peter* and *Miquelon* made to *France* by the sixth article of the treaty come next in course to be considered, but of, which I find myself unable to speak with desirable certainty; nevertheless I shall briefly observe, That these islands are ceded in *full right*; wherefore the question is how far their use, and the rights appertaining to the dominion and property thereby acquired, are restrained by the subsequent matter---That this cession is accompanied with an express declaration that they are “ to serve as a shelter to the
“ *French*

"*French* fishermen." Whatever the force of these words may be considered in other respects they do not, I conceive, amount to a condition that no other use shall be made of these islands; and whether their force considered apart be such that the ample nature of the cession is thereby contracted, limited, and wholly restrained to the purpose of shelter, as they contain no express restriction thereof to this sole use, I should leave to abler judges, in case the matter entirely rested here; but it is evident that the operation and effect of the cession is not wholly to be determined by the words used on the part of *Great Britain*, without taking into consideration the *French* kings engagement hereupon, the minds of both parties being united in each stipulation. The engagement is thus expressed, "And his said most *Christian* majesty engages
"not to fortify the said islands; to erect no buildings upon
"them, but merely for the convenience of the fishery; and
"to keep upon them a guard of fifty men only for the
"police;" so that instead of being applied to the sole use of shelter for the *French* fishermen, it is now declared these islands are to serve as a convenience for their fishery, whereby their use is so far enlarged that I shall not take upon me to mark its limits—That the cession of them being made in perpetuity a perpetual and effectual security touching their future state and use seems very desirable--- That this cession is accompanied with no express provision that an *English* commissary shall reside on each or either of the said islands, or that the commander of the *English* Squadron at *Newfoundland* shall be at liberty from time to time to inspect them, to see that the stipulations are punctually observed, nor any other mean of information provided for that purpose; wherefore I shall more largely consider the *French* kings engagement whereon so great dependance is placed. His most *Christian* majesty, I presume, is a man of honour, and consequently intended to fulfil his engagement when he entered into it; nevertheless I can easily conceive that even during his time these islands
4 may

may not be continued in their proper state and use, conformable to the intent of the cession, when I consider the conduct of courts in general, and of *France* in particular. With respect to the former, all history proves that princes are frequently attended, and sometimes surrounded, by those who use every mean their imaginations can suggest to induce them to look at one or more, many or all, political objects through the false medium prepared for them with the greatest art and dexterity, whereby delusion often taking place of conviction their best intentions are rendered abortive, and different measures are adopted; and what *Flavius Vopiscus* said of the *Roman* emperors in his time is not to be confined to any particular age or country, viz. "Four or five meet and consult together how they shall deceive the emperour: they declare what is to be approved. The emperour, who is shut up at home, knows not the truth, his knowledge is wholly confined to their information; he appoints unfit persons to be judges, and removeth from the service of the commonwealth those who ought to be retained. In short, as *Dioclesian* said, *The good, the wary, the most excellent emperour is sold [m].*" And in case of the future improper state or use of these islands, the facts may be unknown to his most *Christian* majesty, or misrepresented to him; or some groundless pretence of wrongs done by the *English* set up as an excuse or equivalent, or other reasons of state devised for the continuance thereof: but, to proceed to more certain matter, the past conduct of *France*, which will best enable us to judge of the future, the treaty of *Paris* cannot, I presume, be held more obligatory than the treaty of *Utrecht* was, yet the manifold gross violations of the latter compelled us to enter into a war, which

[m] Colligunt se quatuor vel quinque, atque unum consilium ad decipiendum imperatorem capiunt: dicunt quid probandum sit. Imperator, qui domi clausus est, vera non novit: cogitur hoc tantum scire quod illi lo-

quantur: facit iudices quos fieri non oportet, amovet a republica quos debet obtinere. Quid multa? ut *Diocletianus* ipse dicebat, *Bonus, cautus, optimus venditur imperator.*

Vopiscus in Aureliano.

for

for some time was attended with so great disasters and dangers that it appears to me not unfit to be had in remembrance, in order to our future guidance and safety, as well as justice to those who rescued us from a state of distress, and raised us to a state of glory. And after so general to mention a particular affair, I remember that when one of the most flagrant acts of hostility was committed in *Nova Scotia*, during the peace preceding the late war, if peace can be said to subsist with such hostilities, Mr. *Pussieux* declared upon his word, not as a minister, but as a man of honour, that they had given no orders for this proceeding; nevertheless *France* availed herself of the advantage gained by this outrage—That the attempts of *France* to explain away in effect her cession of *Nova Scotia*, with their consequences, rendered it very desirable that her future stipulations should be expressed in the most clear, forcible, and precise terms; yet there is no express stipulation on the part of *France* that the islands ceded shall in all future times continue in the state and condition agreed upon, and be used for convenience of the fishery only, which with proper means of information touching their continual state and use might possibly have served hereafter to prevent such evasive and illusory measures as were devised and practised by the *French* politicians respecting *Nova Scotia*.

There is an important question still remaining, that is what rights of fishing the *French* have acquired by the cession of *St. Peter* and *Miquelon*, the solution whereof I shall leave to others, after observing that according to my sense of the matter they certainly have no right in the fishery lying off the South side of the island of *Newfoundland*, saving what they may have obtained by their being placed there by this cession.

I have the pleasure to inform the reader that in consequence of breaking up the *French* fishery by the late wars the *English* fishery has greatly encreased, and while writing this

this have been assured that the colonies have lately employed in it 5000 men, and been informed, though with less certainty, that the number of other *British* subjects lately employed amounted to 20000 at least: but I must proceed to mention an unpleasing fact, which is that a scarcity of fish has of late years taken place in some parts of the fishing grounds. *Peter Martyr* says that *Sebastian Cabot* found in the seas about the country which he named *Baccalaos* so great multitudes of big fishes called by that name by the inhabitants, that they sometimes stayed his ships, whereas fish on several banks whereon many *English* vessels used annually in times past to catch their fares of late years have been so scarce that the fishermen have quitted them, and gone to other fishing banks. The consequence of several parts of the pasture becoming bare, and of so many *French* fishermen now coming into it, I leave to time and the opinion of others. The best expedient for preserving a plentiful and perpetual supply for *Europe* from this fishery that I have heard mentioned would be to prevent all persons from catching fish in the spawning time. A gentleman lately informed me that in the war which began in 1744 he bought a *French* prize fishing vessel, on board of which were 20 tuns of spawn, or more, the intended use whereof was unknown to him; and it need not be said that in case this fishery had happily remained entire to its original owners the expedient aforementioned, or any other, might have been used with greater ease.

All persons solicitous for the advancement of the commonweal with one consent declare that a proper plan of public conduct, formed with wisdom, comprehension and foresight, and suited to the nature and condition of a state, and its relation to others, with such subsequent alterations as special occasions require, is essential to its lasting welfare. The noble figure which the *American* fishery entire would have made in the plan of a naval empire is more fit for the conception of

of others than the poverty of my description — And thus having set forth the original right of the *English* nation to the whole, with its several diminutions, stating the facts plainly as they came to my knowledge, and making in passage some few observations, which a regard for truth, justice, or the public welfare would not permit me to withhold, I shall leave the merits and demerits of the persons concerned in the acquisition, preservation or diminution of this invaluable public treasure to the determination of others, before quitting my subject only saying that when together with the preceding matters I consider that sea force consists chiefly of seamen, and how large a part of the sailors fighting the *French* fleets in past wars were raised up by this fishery, and what numbers of gallant *British* officers and excellent seamen have lost their lives by means of forces drawn from the proper *English* fountains, and what numbers will hereafter in the course of human affairs lose their lives by the same means, for causes will produce their effects, I cannot forbear recollecting that the eagles grief was encreased on her finding that she was shot with an arrow feathered from her own wing; and that my cordial wishes for the future happy fortunes of my prince and country are accompanied with concern that after obtaining so many important victories, whereby the enemy was so far enfeebled and disarmed, and the sources of her commerce and naval strength brought into our possession, there should be prevailing reasons for putting into her hands so large a portion of this great fountain of maritime power.

 E R R A T A.

Pag.	lin.
45.	4. <i>dele</i> the comma
48.	17. <i>read</i> , in consequence of pique
56.	22. <i>Put a full stop instead of a comma after Minas</i>
71.	28. <i>read</i> , company.